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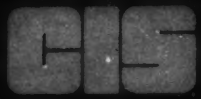

OVERSIGHT ON FISCAL YEAR 1983 INDIAN IMPACT AID BUDGET

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

OVERSIGHT OF IMPACT AID
(PUBLIC LAWS 81-874 AND 81-815)

MARCH 8, 1982
WASHINGTON, D.C.

U.S. GOVERNMENT PRINTING OFFICE
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OVERSIGHT ON FISCAL YEAR 1983 INDIAN IMPACT AID BUDGET

MARCH 8, 1982

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 9:40 a.m., in room 6226, Dirksen Senate Office Building, Senator John Melcher (acting chairman) presiding.

Present: Senators Melcher and DeConcini.

Staff present: Tim Woodcock, staff director; Jo Jo Hunt, staff attorney; Max Richtman, minority staff director; Virginia Boylan, staff attorney; John Mulkey, professional staff member; Twinkle Thompson, staff assistant; Elisa Jones, professional staff member; Joe Trujillo, staff assistant; Mary Gereau, legislative assistant; and Bob Faithful, intern.

Senator MELCHER (acting chairman). The hearing will come to order.

The purpose of these hearings is to establish facts concerning Public Law 81–874, which we know as impact aid. Impact aid is used to finance public school education of American children residing on tax exempt land for which Congress recognizes there is a special obligation.

We are concerned, in this committee, about 98,000 of these children, who are Native Americans and live on reservations on trust lands, which are exempt from local property taxation by action of the Federal Government. These children, as all citizens of the United States, are entitled to receive financial support from the State education funds which all children in the respective States are entitled to.

There is no State which attempts to deny them this right. However, in almost all of the States' educational systems, a large percentage of funding is provided by taxes levied on real property located in the school district.

For the sake of these hearings, we shall assume that this portion of public school support is 45 percent of the per pupil cost, which is the national average for State aid for elementary and secondary schools. This percentage, of course, varies from State to State, but 45 percent is the national average.

The decision of how to apportion the share of the cost of each level of State and of local government is exclusively the prerogative of the State government. The impact aid was an outgrowth of the problem facing State and local education officials, which increased rapidly in the post-World War II years.

As the Nation turned to a peacetime economy, Federal projects were initiated. Each Federal agency had a different policy for dealing with the economic impact on public education, while communities suffered as land was removed from the property tax base, and at the same time, large numbers of new families with children moved into the community.

One of the examples that we can cite is the construction of Hungry Horse Dam in northwest Montana. In a few months in nearby Columbia Falls, the elementary and secondary schools' enrollment jumped from less than 100 to over 500 children. There were not enough schools, teachers, textbooks, or facilities to cope with such a situation. There was not much money to pay out for the extra students, and no tax base on which to levy taxes in support of this extra burden. The Federal agency concerned happened to be the Bureau of Reclamation, in this case, at the construction of Hungry Horse Dam.

We talk about what happens on a military base, and it is the same situation. Each of the Government agencies then has to face that problem because the State people come to them and say, You know, you have this thing going. Here are the extra children. We do not receive any extra tax base from what you are doing. How are we supposed to cope with this?

The Bureau of Reclamation and the Department of the Interior at Hungry Horse charged a private contractor with providing the necessary funds and facilities. I do not think that would work very well today.

The Corps of Engineers, when they were building other dams, such as Libby Dam, attempted to cope with it, and the Air Force at Great Falls—I am sticking to my own State—had still a different method of trying to cope with this additional cost of educating children.

During all of this procedure, the Indian reservations were ignored. What were the opportunities for Indian children? Well, some of them went to boarding schools. Some of them went to the Bureau of Indian Affairs day schools. Some attended public schools, perhaps with some difficulty. I imagine it was with some difficulty because there are very many Indian children, and all of a sudden they show up at a public school. That school district wonders where they are supposed to get the money to pay for the cost of educating these extra children.

As a result of all of this—not because of the Indian children, but because of the Air Force problem, the Bureau of Reclamation problem, the Department of Interior problem, the Corps of Engineers problem, what have you—a Federal agency creating an impact on the community, taking land and property off of the tax roll, but adding a lot of extra children to be educated. Each agency had a different approach to it.

As a result of this situation the impact aid laws were enacted in the early fifties, and that is what we are talking about, Public Law 81–874, which would provide funding for Federal Government activities that remove land from the local tax rolls, and add additional students. A uniform policy and appropriation to carry it out, was established in the, then, Office of Education in the HEW Department.

There is a standard formula replacing the variety of practices among the different Federal agencies, and funds are appropriated directly to the affected local school districts in the State, thus channeled directly to where the problem lies.

This has been the most successful Federal aid program for education because there is little loss of the dollars appropriated from the Federal Treasury to the local school district, on the basis of enrollment and the obligation of the Federal Government toward the children involved in that particular school.

That satisfied the Bureau of Reclamation, the Corps of Engineers, the Army, the Navy, the Air Force, the Park Service, the Forest Service, and all of these other Federal agencies which had been determined by Congress to have some responsibility for paying for part of the cost of the education of the children that were brought there by the Federal action.

I think various Federal agencies, of course, have no expertise or interest in the education process itself. This is a responsibility of the education agency in each State and local school district.

Public Law 81–874 and a companion school construction bill, Public Law 81–815, were highly successful in bringing order out of chaos and reducing the Federal paperwork, relieving both the Federal agencies and the local school officials from months of time-consuming negotiations.

In 1954, largely due to the efforts of my former colleague from Montana, the late Senator Lee Metcalf, who was then in the House of Representatives, children that resided on tax-exempt land, on Indian reservations or trust lands were included in the impact aid program. This was very logical since they were in exactly the same status as the children of military personnel and construction workers.

The point is that these children are not generating Federal funds to their school districts primarily because of their race or nationality, but because of the tax-exempt status of the land on which they reside. Further, there is a special responsibility the Federal Government has, tracing back to the treaties with the Indian tribes, for the education of Indian children.

In that commitment, there was congressional action here in Washington. Clearly, there is this responsibility. It is based on the new programs as much as it is based on the fact that there is the responsibility of the Federal Government for the education of some Indian children through the Bureau of Indian Affairs and the contract boarding schools.

Education of native Americans can be accomplished through what has been more widely done in the past several years, through public school districts on the reservations themselves. I will tell you that in my judgment, the latter has been much more successful, both in terms of quality of education in the school districts and on the reservations themselves. Local elected school boards are much more successful in terms of quality education.

Educating the children in public schools has been much more cost effective. The financing of such education has been through a variety of funding and whatever tax base that might be available, which is very little. The schools are usually on a reservation. Whatever the

State's share per pupil is under State law, flows directly to those particular school districts. Indian children receive the same State aid as all other children in public schools in each State.

Johnson O'Malley funds provide special assistance for unique Indian needs in public schools but does not provide basic school support.

Today most Indian children are in public schools. Those who believe, as I do, must be grateful for the impact aid bill and the impact aid fund. If you believe as I do—and I do not think it can be refuted—there is less cost to the Federal Government in this proposition, since the States are all participating with the share of the cost as they properly should through the public school system.

Now, the administration budget proposes to phase out impact aid by reducing the Federal payment progressively over the next few years. I would like to know why and how, if that is done, we can remove extensive trust responsibilities that the Federal Government has for the Indian tribes.

At this point it is really a very grave situation, since we are talking about children and their opportunity for education. We are talking about Indian children and their opportunity for quality education. I think it is a very important, significant trust responsibility that the Federal Government has.

You cannot say that because of budgetary reasons we can hold this down in spending Federal dollars. I do not think it can be done.

We are going to hear from the administration. We have already heard part of this. We are going to hear further from the administration. I think we have Dr. Jones here and William Stormer and Kenneth L. Smith, who is the Assistant Secretary for Indian Affairs, and we have Gabe Paxton, the Acting Director of Indian Education, Department of the Interior.

First, we will hear from Dr. Jones and William Stormer. I would like to ask all of them to approach the witness table, please.

Senator DeConcini.

Senator DECONCINI. I would like to extend my warm welcome to all of those here from Arizona who have graciously agreed to attend and to testify and to give statements before the Senate Select Committee on Indian Affairs as to the significance of the budget proposal, and we certainly welcome you.

I also want to thank you, Senator Melcher, for participating in these hearings, and as the former chairman of this committee, and for your strong support of the impact aid.

And I also wish to express for the record, my thanks to our Chairman, Senator Cohen, for his cooperation.

Public Law 81–874, the school assistance in federally affected areas, more commonly known as impact aid, provides for payment to public school districts located on or near the reservations that have Indian children in attendance. As a result of the administration's requested reduction for impact aid, these public school districts educating the Indian children would receive about $100 million for fiscal year 1983. This $100 million is a reduction from $126 million for the current fiscal year and from $147 million for fiscal year 1981.

Thus, if the request is granted, there would be approximately a 32-percent reduction in funding over a 2-year period.

Not only are very substantial reductions requested for 874 funds, but the administration is advocating eliminating funds authorized for Public Law 81–815 that assists those schools in the construction program for the present fiscal year. Approximately $8.1 million is available for school construction on or near Indian reservations. The administration proposes zero funding for fiscal year 1983.

Finally, the administration is advocating transferring the 874 portion of impact aid to the Department of the Treasury and the 815 funding to the Department of the Interior. The significance of these requests is very self-evident.

However, one overriding question occurs to me. Will the quality of education provided to the children attending these schools be maintained? I hope answers will be provided today. I am very fearful they will indicate the education will be less.

One last comment before proceeding, Mr. Chairman, is that Chairman Cohen requested that the representatives of the Department of Education remain throughout the hearing to answer any questions that may come up on the request and also the other representatives as well.

Thank you.

Senator MELCHER. Thank you very much.

Senator Abdnor had asked to present testimony at this hearing this morning, but he called and stated that he could not be here, and would like to have his statement made part of the record.

Without objection, that statement will be made a part of the record.

Also, the chairman received correspondence from Senators Burdick and Exon. Without objection, I will place that in the record at this time.

[The statement and correspondence follows. Testimony resumes on p. 15.]

PREPARED STATEMENT OF JAMES ABDNOR, A UNITED STATES SENATOR FROM THE STATE OF SOUTH DAKOTA

GOOD MORNING, MR. CHAIRMAN. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO DISCUSS BRIEFLY AN ISSUE OF UTMOST IMPORTANCE TO SOUTH DAKOTA AS WELL AS TO A NUMBER OF OTHER STATES, SEVERAL OF WHICH ARE REPRESENTED BOTH BY YOU AND BY YOUR DISTINGUISHED COMMITTEE COLLEAGUES -- THAT OF IMPACT AID (P.L. 81-874).

AS YOU ARE AWARE, THE ADMINISTRATION, IN ITS FISCAL YEAR 1983 BUDGET REQUEST, IS PROPOSING SIGNIFICANT REDUCTIONS IN FUNDS FOR IMPACT AID -- REDUCTIONS WHICH, IF APPROVED BY CONGRESS, WILL FORCE SCHOOL CLOSINGS AS EARLY AS THIS COMING FALL. FUNDS FOR 'B' CHILDREN, WHOSE PARENTS EITHER LIVE OR WORK ON FEDERAL PROPERTY WOULD BE ELIMINATED, FUNDS FOR 'A' CHILDREN, WHOSE PARENTS BOTH LIVE AND WORK ON FEDERAL LANDS, WOULD BE CONTINUED AT 30 PERCENT OF THE AMOUNT PROVIDED DURING THE CURRENT FISCAL YEAR, A FIGURE WHICH REPRESENTS ONLY 90 PERCENT OF THE FY81 ENTITLEMENT FOR 'A' CHILDREN -- A REDUCTION WHICH HAS ALREADY LED TO SEVERE FINANCIAL HARDSHIPS IN A NUMBER OF FEDERALLY-IMPACTED COMMUNITIES.

MR. CHAIRMAN, GIVEN RECENT REDUCTIONS IN OTHER EDUCATION PROGRAMS, THIS PROPOSAL MAY NOT APPEAR AS DRASTIC AS IT REALLY IS. HOWEVER, WHILE SCHOOL DISTRICTS MAY BE ABLE TO ABSORB THE ELIMINATION OF FUNDS FOR 'B' CHILDREN, THE SEVERE REDUCTIONS IN FUNDS FOR 'A' CHILDREN PROPOSED BY THE ADMINISTRATION WOULD DEVASTATE THE QUALITY OF EDUCATION IN DISTRICTS WITH SUBSTANTIAL PORTIONS OF FEDERAL, NON-TAXABLE LAND IN WHICH MANY STUDENTS' PARENTS DO NOT

CONTRIBUTE TO THE TAX BASE WITHIN THOSE DISTRICTS. THE FEDERAL GOVERNMENT MUST BE MADE TO LIVE UP TO ITS COMMITMENT TO COMPENSATE SCHOOL DISTRICTS FOR REVENUES LOST DUE TO FEDERAL OWNERSHIP OF LANDS WITHIN THEIR BOUNDARIES. WITHOUT SUFFICIENT FUNDS, IT IS ULTIMATELY THE CHILDREN SERVED BY SEVERELY IMPACTED SCHOOL DISTRICTS WHO WILL SUFFER AS A RESULT OF THESE ILL-CONCEIVED REDUCTIONS.

OF THE 49 SOUTH DAKOTA SCHOOL DISTRICTS WHICH RECEIVE IMPACT AID FUNDS, 24 ARE SO-CALLED SUPER 'A' DISTRICTS: DISTRICTS IN WHICH 'A' STUDENTS COMPRISE 20 PERCENT OR MORE OF THE TOTAL ENROLLMENT. OTHER THAN THE DOUGLAS SCHOOL DISTRICT AT ELLSWORTH AIR FORCE BASE (AFB), ALL THESE DISTRICTS ARE IMPACTED BY TRIBAL LANDS. ONE OF THE MOST SEVERELY IMPACTED DISTRICTS IN MY STATE, SHANNON COUNTY, IS APPROXIMATELY 95 PERCENT IMPACTED. ONLY 13 PERCENT OF THE LAND WITHIN THE SCHOOL DISTRICT IS TAXABLE, 87 PERCENT IS NON-TAXABLE FEDERAL LAND. CONSEQUENTLY, THE SHANNON COUNTY SCHOOL DISTRICT MUST RELY ON IMPACT AID TO FUND 69 PERCENT OF ITS TOTAL BUDGET.

TWO OF THE DISTINQUISHED MEMBERS OF THIS COMMITTEE REPRESENT THE STATE OF ARIZONA WHICH HAS 31 SUPER 'A' DISTRICTS, 14 OF WHICH ARE IMPACTED BY MORE THAN 95 PERCENT. THE STATE OF MONTANA HAS 40 SUPER 'A'S, NORTH DAKOTA HAS 18, WASHINGTON HAS 15, MAINE HAS 5, AND ALTHOUGH HAWAII DOES NOT HAVE A SUPER 'A' DISTRICT WITHIN ITS BOUNDARIES, I UNDERSTAND THAT ITS PARTICULAR SITUATION IS MASKED BY THE FACT THAT ALL ITS SCHOOLS ARE CONTAINED WITHIN A SINGLE DISTRICT.

ON MORE THAN ONE OCCASION I HAVE COMMUNICATED TO THE OFFICE OF MANAGEMENT AND BUDGET (OMB) THE EXTREME FINANCIAL CIRCUMSTANCES FACED BY HEAVILY IMPACTED SCHOOL DISTRICTS. I HAVE EMPHASIZED THAT WITHOUT AN ADEQUATE LEVEL OF FUNDING, SEVERAL OF THE IMPACTED DISTRICTS WITHIN MY STATE COULD BE FORCED TO CLOSE THEIR DOORS DURING THE NEXT SCHOOL YEAR. NEVERTHELESS, DESPITE MY EFFORTS, AND THE EFFORTS OF MANY OF OUR COLLEAGUES, THE ADMINISTRATION HAS RECOMMENDED SEVERE REDUCTIONS IN IMPACT AID FUNDS -- THE MERE THREAT OF WHICH IS IMPEDING IMPACTED SCHOOL DISTRICTS' ABILITY TO PLAN BUDGETS FOR THE 1982-83 SCHOOL YEAR.

MR. CHAIRMAN, I WOULD LIKE TO SUBMIT FOR THE RECORD DATA WHICH BOTH ILLUSTRATES THE DEGREE TO WHICH SOUTH DAKOTA'S 24 SUPER 'A' DISTRICTS RELY UPON IMPACT AID FUNDS AND THE EFFECTS FURTHER REDUCTIONS IN ENTITLEMENTS FOR 'A' CHILDREN WOULD HAVE IN THOSE DISTRICTS. THIS INFORMATION WAS MADE AVAILABLE TO OMB IN EARLY JANUARY.

IN CLOSING, MR. CHAIRMAN, LET MY EMPHASIZE THAT WE MUST WORK TOGETHER TO ENSURE THAT CONGRESS MAKES AVAILABLE TO SUPER 'A' DISTRICTS SUFFICIENT DOLLARS TO ENABLE THE FEDERAL GOVERNMENT TO MEET THIS VITAL, AND STATUTORILY-MANDATED OBLIGATION.

DATA REFLECTING PROPOSED REDUCTIONS IN IMPACT AID
(OMB - Stockman's Proposal)

SCHOOL DISTRICT	FY '81 Payment 95% of Entitlement "A" Payment	FY '81 Payment 95% of Entitlement "B" Payment	FY '82 Payment 90% minus 4% of FY '81 Payment	FY '83 Payment 58% of Super "A" FY '81 Payment	FY '84 Payment 25% of Super "A FY '81 Payment
Aberdeen	---	32,596.67	28,163.52	---	---
Andes Central	168,272.68	5,481.51	150,123.62	97,598.15	42,068.17
Belle Fourche	---	4,788.38	4,137.16	---	---
Bennett County	318,178.20	5,247.05	279,439.42	184,543.36	79,544.55
Bison	---	2,381.66	2,057.75	---	---
Bonesteel	69,226.03	---	59,811.29	40,151.10	17,306.51
Browns Valley	27,773.49	---	23,996.30	---	---
Chamberlain	299,525.79	3,392.95	261,721.79	173,724.96	74,881.45
Custer	---	12,017.61	10,383.22	---	---
Douglas	2,185,738.16	84,089.72	1,961,131.29	1,257,728.13	546,434.54
Dupree*	260,729.86	2,261.07	227,224.16	151,223.32	65,182.47
Eagle Butte	787,651.59	3,787.39	683,803.28	456,837.92	196,912.90
Edgemont	4,556.04	2,656.26	6,231.43	---	---
Flandreau	90,108.49	6,983.54	83,887.51	---	---
Gettysburg	---	2,189.24	1,891.50	---	---
Harrold	92,244.93	---	79,699.62	53,502.06	23,061.23
Hill City	---	5,564.00	4,807.30	---	---
Hot Springs	7,762.51	19,765.38	23,784.10	---	---
Hyde	1,554.19	1,983.84	3,056.86	---	---
Isabel	82,419.39	---	71,210.35	47,803.25	20,604.85
Kadoka	643,413.31	7,407.15	562,308.88	373,179.72	160,853.33
Lead-Deadwood	3,182.42	6,021.89	7,952.52	---	---
Lemmon	5,776.35	4,498.49	8,877.46	---	---
Lennox	---	4,090.42	3,534.12	---	---
Lyman	271,773.88	2,756.09	237,193.89	157,628.85	67,943.47
Mc Intosh	276,543.77	6,540.74	244,585.02	160,395.39	69,135.94
Mc Laughlin	447,208.84	3,532.77	389,440.75	259,381.13	111,802.21
Meade	17,575.79	38,470.63	48,424.11	---	---
Mobridge	---	2,518.45	2,175.94	---	---
Newell	---	1,813.25	1,566.65	---	---
New Underwood	---	5,966.63	5,155.17	---	---
Pierre	13,472.41	22,950.71	31,469.58	---	---
Rapid City	---	134,333.19	116,063.88	---	---
Shannon County	3,512,156.84	819.46	3,035,211.52	2,037,050.97	878,039.21
Sioux Falls	---	44,888.68	38,783.82	---	---
Sisseton	549,729.60	27,705.73	498,904.13	318,843.17	137,432.40
Smee	234,227.67	1,129.18	203,348.32	135,852.05	58,556.92
Spearfish	8,576.96	5,950.31	12,551.56	---	---
Stanley County	---	2,523.92	2,180.67	---	---
Timber Lake	103,368.24	---	89,310.16	59,953.58	25,842.06
Todd County	2,400,887.70	7,202.13	2,080,589.61	1,392,514.87	600,221.93
Veblen	73,534.57	2,997.99	66,124.13	42,650.05	18,383.64
Wagner	219,395.88	7,939.93	196,418.14	127,249.61	54,848.97
Wall	2,168.34	1,788.21	3,418.46	---	---
Watertown	193,051.63	402.18	167,144.09	111,969.95	48,262.91
White River	350,046.16	9,928.51	311,018.11	203,026.77	87,511.54
Wilmot	49,239.08	---	42,542.57	---	---
Winner	158,006.56	1,692.25	137,979.77	---	---
Wood	34,274.09	7,198.92	35,832.68	19,878.97	8,568.52
Faith*	9,538.90	565.27	8,730.00	---	---
TOTALS	13,972,890.34	558,819.35	12,555,397.18	7,872,687.33	3,393,399.72

*No Data Available on FY '81 Payment Total FY '81 Payment: 14,531,709.69

South Dakota School Districts
With 20% Or More Impact Aid Students
1980-81

School District	ADA	Number "A" Students	Number "B" Students	% of Impact Aid Students	*Total Receipts	***Impact Aid Entitlement	% of Budget
Andes Central	457	128	62	41.6	961,949.60	207,582	22
Bennet County	623	188	46	37.6	1,522,029.41	367,425	24
Bonesteel	192	43	--	22.4	478,458.56	72,869	15
Chamberlain	1,088	228	38	24.4	2,049,524.94	334,140	16
Douglas	2,312	1,533	280	78.4	5,098,734.17	2,845,199	56
Dupree**	294	164	16	61.2	665,866.80	260,730	39
Eagle Butte	730	547	40	80.4	1,790,745.85	850,148	47
Harrold	150	49	--	32.7	538,996.87	97,099	18
Hot Springs	968	10	254	27.3	2,113,720.51	119.093	6
Isabel	90	44	--	48.9	353,542.26	86,757	25
Kadoka	466	346	60	87.1	1,680,626,95	718,420	43
Lyman County	564	151	24	31.0	1,648,161.29	301,389	18
Mc Intosh	279	141	51	68.8	1,044,123.18	327,436	31
Mc Laughlin	526	280	34	59.7	1,458,160.85	490,372	34
Shannon County	1,512	1,422	5	94.4	5,386,585.43	3,701,559	69
Sisseton	1,257	375	291	53.0	2,635,004.23	732,583	28
Smee	129	120	6	97.7	484,226.23	252,828	52
Timber Lake	327	67	--	20.5	676,227.10	108,808	16
Todd County	1,595	1,246	57	81.7	4,598,400.41	2,567,262	56
Veblen	162	38	24	38.3	528,198.71	94,060	18
Wagner	709	167	82	35.1	1,439,127.35	271,032	19
Waubay	368	130	4	36.4	850,244.64	205,446	24
White River	394	185	78	66.8	789,302.08	123,628	16
Wood	115	19	62	70.4	487,430.02	76,072	16

**Estimated - No Entitlement Data Available at Present

*Total of Local, County, State, & Impact Aid

***Prior to Congressional reduction of funds

MARK O. HATFIELD, OREG., CHAIRMAN

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United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

March 8, 1982

The Honorable William Cohen
Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Enclosed please find testimony for your hearing held March 8 on impact aid. I would appreciate this being included in the record of the hearing.

With kind regards, I am

Sincerely,

Quentin N. Burdick

QNB:ahj

Enclosure

Testimony by Senator Quentin N. Burdick
Before the Senate Select Committee on Indian Affairs
Oversight Hearing on Impact Aid as it Affects Indians
March 8, 1982

Mr. Chairman,

I am very glad that the Senate Select Committee on Indian Affairs has seen fit to hold this hearing today on the continuing need for impact aid for school districts with large numbers of Indian students. I am afraid the Administration's proposals in this area are totally inadequate and would result in severe hardship for these districts.

Furthermore, I have serious reservations about transferring part of this program to the Treasury, and part to the BIA. For all the complicated tiers and varying levels of payment, the impact aid program has a very simple premise, and that is that school districts should be compensated for the loss of revenues from federal lands and installations which they are prohibited from taxing. To split this program up and send portions of it to different agencies would only encourage a diversity of payment levels that could prove to be very unfair. For this reason, I think it makes good sense to keep all parts of the program together.

As you may know, North Dakota has four school districts with 100 percent Indian enrollment. Another four districts have over 50 percent Indian enrollment. If these districts lose their impact aid, they have no where else to turn. They cannot tax the Indian lands within their jurisdiction, and they simply have no other source of revenue. In most instances, a loss, or even a severe reduction, in impact aid would be a disaster.

I firmly believe that education is one of the best investments we can make in the future of this nation. We cannot shortchange our Indian students in this investment. As a member of the Senate Appropriations Committee, I will be working to see that impact aid for Indian districts remains at as high a level as possible, and I will resist any cuts in the program. I hope your hearing today will find others willing to make the same commitment. If so, I think we will be able to persevere on this issue.

J. JAMES EXON
NEBRASKA

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COMMITTEES:
ARMED SERVICES
COMMERCE, SCIENCE, AND TRANSPORTATION
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United States Senate

WASHINGTON, D.C. 20510

March 4, 1982

The Honorable William S. Cohen
Chairman
Select Committee on Indian Affiars
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

I commend you for holding a hearing on the Impact Aid program as it affects Indians.

I have great interest in the Impact Aid program for many reasons. Nebraska has several districts with large percentages of Indian students, and these districts are heavily dependent upon a sufficient Impact Aid appropriation. There are other school districts in Nebraska which have large numbers of students connected with the military. My committee assignments include the Senate Armed Services Committee and Senate Budget Committee, and both of these committees deal with the Impact Aid program to some extent.

One purpose of my letter is to say that I am not aware of any problems with the Impact Aid program that cannot be solved through adequate appropriations. I believe the current authorization of $475 million is a figure which cannot be allowed to drop significantly without doing real harm to the schools and students which are served by the Impact Aid program.

As we begin the 1982 Congressional session, I am troubled by a number of possibilities which could develop with regard to the Impact Aid program. First, there has been some discussion that the Impact Aid program should be split up and handled by different departments. Although this might have some positive aspects, I believe it should be considered only as a last resort. After all, the Impact Aid program should not be considered a collection of separate programs to assist Indians, military dependents, and other groups. Rather, the Impact Aid program exists as recognition of the fact that the federal government has the sole obligation to support districts which have been adversely impacted because of federal action. To divide up the program, and therefore to divide up the Congressional committee jurisdiction, would lead inevitably to unequal treatment of school districts based upon criteria other than the real purpose of the Impact Aid program.

I am also concerned about reaction to the President's proposal to move the Impact Aid program to the Department of the Treasury. I believe the proposal itself is sound, but there has been negative reaction to it since this has been viewed as a step in the dismantling of the Department of Education. Some senators and interest groups have taken the position that the Impact Aid program must remain in the Department of Education, for the sake of appearances, regardless of how the program is funded and operated. I only hope that Congress, in its wisdom, will seek to place a higher priority on the needs of students and school districts rather than bureaucratic politics here in the nation's capital.

Lastly, my concerns also extend to the possibility that the Bureau of Indian Affairs may have to assist school districts with high percentages of Indian students if the Impact Aid program is not adequately funded. To date, I am not convinced that the BIA has shown the willingness to step in in such an eventuality. I fully realize that the BIA could not be of significant assistance unless funds were provided by Congress for such a purpose, but I believe the BIA should start to consider some contingency plans along these lines.

Mr. Chairman, again I commend you for holding a hearing on the matter of Impact Aid as it affects Indian students. In summary, I can only emphasize that our first and only real responsibility is to see that the federal government meets its obligation to provide quality education for Indian students in public schools. To allow any other consideration to interfere is a rejection of that responsibility which would be unfortunate and irresponsible.

Sincerely,

J. James Exon
United States Senator

JJE/jom

Senator MELCHER. It is my understanding, Dr. Jones, that you do not have any prepared testimony for today?

Dr. JONES. That is correct, sir.

Senator MELCHER. Mr. Paxton, do you have some prepared testimony?

Mr. PAXTON. Yes, Mr. Chairman, I do.

Senator MELCHER. Would you like to present it at this time?

STATEMENT OF S. GABE PAXTON, JR., ACTING DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, DEPARTMENT OF THE INTERIOR

Mr. PAXTON. Mr. Chairman and members of the committee, I am pleased to have this opportunity to present the views of the Department of the Interior concerning impact aid to school districts.

As you know, the Department of Education administers both Public Law 81-815 and 81-874, which, respectively, provide financial assistance for the contruction of schools and financial assistance to local educational agencies for the operation and maintenance of public schools in areas affected by Federal activities. These complementary bills are commonly known as impact aid.

Throughout the years, the impact aid staff and our Office of Indian Education Programs staff have worked in coordination with one another concerning Indian students living on Indian tax-exempt lands. The coordination between the two agencies has been exemplary.

However, because our knowledge of the administration and legal aspects of the impact aid programs is limited at this time, we are not able to provide you with any substantive detail.

There are about 689 school districts with students living on Indian lands. About 200 of these school districts have an enrollment of more than 20 percent of A category students. These are Indian students whose parents live on federally owned or controlled tax-exempt property, regardless of where they work, and they are counted as A category children.

Since 1980, all students living on Indian lands have been funded at the 125-percent level of their local contribution rate and at the 187.5-percent level for all special education students.

Indian students living on Indian lands have been funded at a higher rate than their regular A category counterparts.

In 1983, similar funding rates and numbers of students and districts will be served, but with a 20-percent reduction. Of course, the severity of this reduction will depend on the size of enrollment and ability of the local school districts and States to generate additional revenues for educational purposes.

This concludes my prepared statement, Mr. Chairman. I would like to add just a few additional remarks. Although we have received some feedback from various tribes throughout the Nation, we do not have a complete picture of the effects of the reduction in funds.

Tribes tell us that the proposed reduction will result in reduced staff, reduced programs, and reduced quality. At the same time, we in the Department of the Interior support the Department of Education in the decisions of priority they must make in response to the

President's policy of reduced Government spending throughout the Nation.

This is one of the priority decisions of the Department of Education. As they make these decisions, we in the Department of Interior realize that it is our responsibility that the Indian children on reservations continue to be served. Since we have not had the responsibility for impact aid, we have no indepth knowledge of the program.

A number of tribes have asked us: What are we going to do about the impact aid program? We are in a dilemma because, frankly, we do not know what we will do about it because in our budget submission to the Congress, the President's budget for fiscal year 1983, we are asking for funding for approximately 39,000 Indian children that are not in public schools.

The number of students we are discussing today is an additional 98,000 students in public schools. It has been our position that Indian children should be in public schools whenever possible.

So we agree with you, Mr. Chairman. We feel the public schools are performing a quality role that we can support. We are pleased that Indian students are in public schools.

Now, if the Indian tribes throughout the Nation, particularly in Arizona, Nebraska, and North and South Dakota, have their impact aid funds reduced, it becomes an issue to us in the Department of the Interior as to how we would absorb some of the costs that are now under the impact aid program. We in the Interior Department realize that we have a Federal role and responsibility for Indian children on Indian reservations.

We have not included budget requests for eventualities that have not yet happened. We realize that many of the Indian tribes are concerned, and we share their concerns.

That concludes my remarks, Mr. Chairman. Thank you for this opportunity.

Senator MELCHER. How much does it cost? How much is in that budget for 39,000 children?

Mr. PAXTON. Approximately $154 million under our formula.

Senator MELCHER. $154 million for 39,000?

Mr. PAXTON. Yes, sir.

Senator MELCHER. So, the question is whether the $100 million that the administration recommends is sufficient to meet the Federal obligation for the other 98,000 Indian students that are enrolled in public schools?

Mr. PAXTON. Yes, Mr. Chairman, but there are different categories for the 39,000. The $154 million that we have asked for is for the 100-percent support of those 39,000 students.

Senator MELCHER. Yes; the 100-percent support. Now, 100-percent support in a BIA school, if that is the way the ball is supposed to bounce, then, could be $154 million would be necessary for another 39,000. That would leave us with roughly 60,000 students still not taken care of, even by doubling the money; is that correct?

Mr. PAXTON. That appears correct, Senator.

Senator MELCHER. So you would agree then that the most cost-effective way is through the present system we have with the public schools?

Mr. PAXTON. As I have stated, Mr. Chairman, we do support the concept of Indian students being in public schools.

Senator MELCHER. Then, how do you justify your statement, Mr. Paxton, that you are in favor of the President's program to cut down costs when this obviously is not going to cut down costs? It is going to increase it dramatically or throw kids out of school.

Mr. PAXTON. I can only stand by my statement, Senator.

Senator MELCHER. Well, is this your own statement? Is this your best judgment, or are you just repeating the statement approved by the Office of Management and Budget?

Mr. PAXTON. It is the statement of the Department of the Interior, sir.

Senator MELCHER. Well, now, having given that statement, what is your own best judgment?

Mr. PAXTON. My own best personal judgment is that we will have reductions in quality if the funds are reduced, Mr. Chairman.

Senator MELCHER. It will be worse than that, will it not? If you are going to spend just $100 million, you are going to have not only reduction in quality, you are not going to educate some Indian children. Is that not right?

Mr. PAXTON. In some cases, Mr. Chairman, we have been informed that some public schools may have to be closed.

Senator MELCHER. What does that mean?

Mr. PAXTON. It would mean that if there are children on Indian reservations, it would be our responsibility, in the Bureau of Indian Affairs, to come up with a solution. There are some possible solutions. We do not know, in depth, what all the implications are. In some cases we may get into cooperative school agreements where the schools are partly funded by the public schools.

Senator MELCHER. In your judgment, would that cost more, or less, or the same? What has been proposed?

Mr. PAXTON. We do not know, Mr. Chairman.

Senator MELCHER. I am not asking what you know. I know you do not know, or you do not know what is to be done, but in your judgment would it be more, or less, or about the same?

Mr. PAXTON. With the experience that we have had with quality of schools, we would not see a reduction in quality because we would have both the public school——

Senator MELCHER. I am talking about cost right now, Mr. Paxton. Would it cost more, less, or about the same?

Mr. PAXTON. I cannot make a judgment on that, Mr. Chairman. I really do not——

Senator MELCHER. You cannot make a judgment. Well, let me make a couple of judgments. You have got enough school space for 39,000 children.

Mr. PAXTON. Yes, sir.

Senator MELCHER. If you have got to have 98,000 either absorbed by the BIA through new schools, you are going to have to build a lot of new schools. If you are going to have cooperative agreements with the schools that you mentioned, you are going to be negotiating between now and September, and I do not see how it would be any cheaper than what it has been, because I am informed that most States are providing

all they can per student. It is not a question of just dipping in somewhere and finding an empty bagful of money that all of a sudden can be sent from the State capital to some school districts that are in a bind because the Indian children are there and the Federal funds are not going to be provided at the same level they were before.

So it would seem to me that instead of saving any money, you could easily spend another $50 million or $100 million getting these cooperative agreements because if you are going to negotiate with them, they are not going to ask for the same old impact aid funds which are not all that big anyway. They are going to ask for more.

I think what we are really getting to, though, is the statement you have made that in your judgment there might be some of these children not actually getting a quality education, I think that is where we are going to hang our hat, and that is exactly what would happen. There would be a lot of students that just were not going to school in a very good way. Is that your judgment?

Mr. PAXTON. Not only my judgment, but also what some of the tribes are telling us, Mr. Chairman.

Senator MELCHER. And how long have you been with the BIA?

Mr. PAXTON. I have been in Federal service for 32 years.

Senator MELCHER. And how long have you worked with education of Indian children?

Mr. PAXTON. Approximately 29 of those years.

Senator MELCHER. Twenty-nine of those years, and that is your best judgment.

Dr. Jones, what is your best judgment today? What is going to happen to quality education for these children?

STATEMENT OF GARY L. JONES, DEPUTY UNDER SECRETARY FOR PLANNING, BUDGET, AND EVALUATION, DEPARTMENT OF EDUCATION; ACCOMPANIED BY FRANK RYAN, COUNSEL

Dr. JONES. First of all, Senator, it is pretty hard for us to assess.

Senator MELCHER. Let me interrupt here, Dr. Jones.

Just for the record, Dr. Jones stated to us last week that he not only supports the administration and the reduction of these funds. He feels that it is wise and good and that quality education will result from it.

Now, proceed, Dr. Jones.

Dr. JONES. That is your assessment of my remarks last week, Senator.

Senator MELCHER. Well, please correct me if I am wrong on that.

Dr. JONES. The question of quality is very much on our minds as well when it comes to education—education for students in Indian schools, education for students in inner city schools or wherever—and we have not stated emphatically that it will not deter quality, nor have we said that it is an automatic reduction in quality.

That is a statement that has been thought out very carefully. Quality is a very hard thing to measure, Senator, and it cannot simply be measured in the amount of dollar support.

On the other hand, we recognized that if we do reduce dollars, there must be either a reduction in some programs or there must be a reallo-

cation of dollars from other programs to the program that you wish to place the highest priority on.

The question of quality is very much on our minds. We are simply advocating that local school districts, when they are confronted with budget cuts, look at their budget and see what their priorities should be and allocate the money accordingly.

Senator DECONCINI. Would the Senator yield?

Senator MELCHER. Yes, I will yield.

Senator DECONCINI. Mr. Jones, I appreciate what I think was your reply, and I cannot come to a conclusion whether or not you think that by ceasing some of the impact aid funds that the quality of education for Indian children in the areas that receive the funds will be enhanced, or will the education be less education, or you know you did not give us a straight answer.

Can you say yes or no, that it is going to be better or worse?

Dr. JONES. Senator, I thought that I gave you an answer. I meant to, and I will try to be more explicit.

Senator DECONCINI. Well, your answer seems to me like it is the decision that the quality is going to be left with the local schools to make, and that is based on priorities. Is that a fair assessment of what your answer is?

Dr. JONES. Their assessment of priorities.

Senator DECONCINI. So, in other words, if they want to raise taxes, adjust programs, or eliminate programs in order to keep up with what the cut from the impact aid is, then the quality can continue where it is today? Is that what you are saying, that it is up to them to determine what that quality is?

Dr. JONES. It is always up to the local school system to determine what quality is to that school system, how they achieve greater quality within their school system.

Senator DECONCINI. Yes.

Dr. JONES. I am saying, it may not mean a reduction in classrooms.

Senator DECONCINI. I cannot agree, but I can appreciate the fact that you have to sit here and say, "Look, I have to defend this. This is a marching order," and that is what it is, but it is very difficult for me to accept. I would feel much better if the administration said, "Look, quality is going to suffer and we are not kidding anybody. We have got to balance the budget, and so everybody is going to suffer, and Indian children's education is going to suffer because we do not have the dollars," rather than try to tell us that it is up to the local school districts and the States to make that decision whether or not quality suffers.

If you take money away, whether you do it, the Federal Government, or it is taken away by the local school district from the actual school, it seems to me it is a fair conclusion that quality is not going to be as high as if those fundings continued.

Do you disagree with that? If you do not want to answer that, fine.

Is it not really a matter of the administration determination to reduce the deficit or the Federal expenditure? That is why this money is being eliminated or reduced. Is that not what it really amounts to; and quality is not really the factor here?

Dr. JONES. The administration has attempted its economic recovery program for the last year, and part of that has been a reduction in the increase of Government spending. I underscore that we are not reducing Government spending below a certain prescribed level. We are simply reducing the growth of spending by the Federal Government.

I stand, however, Senator, on my statement that the definition of "quality" is an assessment that needs to be made at the local level, and however quality has been defined at the local level, and whether it will be increased or not, depends upon many initiatives that can rest with the local officials.

Senator DECONCINI. But in 1981, the impact aid for Indian children under Public Law 81–874 was $147 million and now you are proposing $100 million, which is a reduction from $126 million for the year 1982. So it is not just one whack at quality, or whatever we want to term it. It is the second time around, and that is what troubles me so much, is for the administration not to be up front with the fact that the reason we are doing this, folks, is that we have got this economic recovery program, and we think ultimately it is going to turn around this country and we are going to be able to reinstate or do things that are going to improve the quality of education for Indian children, but right now today, we are going to cut it 32 percent.

It just seems to me that is what you are doing, and, you know, we may disagree with it, but it would surely be a lot better confrontation, I think, if that were the basis rather than trying to pay it off or lay it off on the local districts to do with 32 percent less funds, and it is up to them to maintain the quality.

I thank the Chairman.

Senator MELCHER. Well, I think the appropriations figure for 1982 is $152 million; is that correct?

Senator DECONCINI. For what, 1982? $147 million for 1981, I understand.

Senator MELCHER. $157 million for 1981; is that correct?

Dr. JONES. That is correct, sir.

Senator MELCHER. And what for 1982?

Dr. JONES. $126 million.

Senator MELCHER. So, what you are saying is that the local school districts will even absorb more of a cut, about a 20-percent cut?

Dr. JONES. We are suggesting, sir, that they may have to absorb those cuts.

Senator MELCHER. Pardon me?

Dr. JONES. We are suggesting that they may have to absorb those cuts.

Senator MELCHER. You are recommending them.

Dr. JONES. We are recommending the Federal reduction, yes, and we are——

Senator MELCHER. Well, who is to absorb it, if they are not going to absorb it?

Dr. JONES. As I mentioned last week, sir, States do have resources at their command, and perhaps they can reallocate some of their dollars if they can look at the priorities that they establish within their States.

Senator MELCHER. In my State the percentage of Indian children is small compared to non-Indian children, a very, very small percentage. It is my information that in my State, as in other States, they are already allocating to Indian children what they can afford.

There is no State, you know, which can withstand the badgering, the constant beating of the legislature that there is more money in the State treasury than there is in my home county or my home district's school coffers. Give out some so we can relieve the local property taxpayers. I am suggesting that some States have dipped into their funds.

Dr. JONES. I am suggesting that States may wish to assess their priorities and determine how many dollars at the State level they wish to allocate to Indian education.

Senator DECONCINI. Mr. Chairman, would you yield another minute?

Senator MELCHER. I would be glad to.

Senator DECONCINI. I want to pursue one more thing with Mr. Jones on the basis of quality education.

On March 2 or 3, Secretary Bell testified before the House Education and Labor Committee, and in the course of some exchange there, as reported at least in the local newspaper here, one Representative asked Mr. Bell if the quality of education for disadvantaged children can be maintained with a 23-percent cut in funding; is this going to affect quality?

And Mr. Bell, the Secretary, said, "I could not make the claim. When you reduce funding, you sacrifice as far as quality is concerned."

All right. Now, you are leaving us with the testimony here that the funding, if it is made up by the local districts or the States, then of course, quality would be maintained. If it is not, then you would agree that quality will be lessened or could be lessened.

Dr. JONES. It could be less.

Senator DECONCINI. You think, without the funds from either the Federal Government through impact aid, or the local or State governments, that quality can be maintained. Is that your statement?

Dr. JONES. The greatest impact on quality education occurs in the classroom, Senator. It occurs with the quality of the teaching and the atmosphere in the classroom and the atmosphere of the school system and the priorities that are placed on education.

Senator DECONCINI. What makes up that environment in the classroom, the teachers, the physical facilities and what the ratio is of teachers and how much they are paid? Does that not all cost money?

Dr. JONES. Yes, sir.

Senator DECONCINI. If you do not have the money, is it not fair to say that quality is going to be reduced because you are not going to have so many teachers per student, or you are going to have less physical amenities, or not have the books? Is that not a fair assessment?

Dr. JONES. That could be the assessment, yes, sir.

Senator DECONCINI. Thank you, Mr. Chairman.

Senator MELCHER. Now, Mr. Stormer, what will be the actual funding for 1982, the impact aid for the Indian people?

STATEMENT OF WILLIAM STORMER, DIRECTOR OF THE IMPACT AID PROGRAM, DEPARTMENT OF EDUCATION

Mr. STORMER. For 1982, $126 million is the amount that would be provided to service the children residing on Indian lands.

Senator MELCHER. Is that a reduction?

Mr. STORMER. That is a reduction from 1981, yes, sir.

Senator MELCHER. What is the reduction? Is it in students or is it a reduction in appropriated funds?

Mr. STORMER. It is in appropriated funds as a result of the limitation established by the Reconciliation Act of 1981 and the 4-percent reduction contained in the continuing resolution. The total appropriation is limited to $455 million for Public Law 874 by the Reconciliation Act.

Senator MELCHER. How many Indian pupils are you calculating for 1982?

Mr. STORMER. Roughly 98,000. The 1982 continuing resolution provides that any school district that would receive less than $5,000 in impact aid will not receive a payment. There are some districts—I think there are 46—that serve Indian children or children residing on Indian lands which would not be funded due to that proviso. I do not know the exact number of children eliminated by the minimum funding provision.

Senator MELCHER. How does this fit in with the Bureau of Indian Affairs' estimate that Indian public school enrollment will increase?

Mr. STORMER. I would have to say that you may find a very small number of local educational agencies that will not have sufficient funds to maintain the quality that is desired. I think that you are going to find that most educational agencies are going to evaluate their services, and if under State law they are permitted to terminate, they may close their doors or they may shorten their term of education during the course of the school year.

I have not heard, at this point, of any local educational agencies serving children residing on Indian lands that even threaten to close their doors. Mr. Paxton may have more information.

Senator MELCHER. When would they close their doors?

Mr. STORMER. In the subsequent school year.

Senator MELCHER. Are we talking about——

Mr. STORMER. Certainly it is not 1981 or 1982.

Senator MELCHER. Pardon me?

Mr. STORMER. We are not talking about 1981 and 1982.

Senator MELCHER. No, you are not either, are you?

Mr. STORMER. No, I am thinking of 1982 and 1983.

Senator MELCHER. Yes, you are thinking of then for the $126 million.

Mr. STORMER. No, that is the $100 million even, in 1983.

Senator MELCHER. Go ahead.

Mr. STORMER. What I am saying here is that, at this point, I have not heard of even the smallest of the school districts indicating that it was going to terminate services to children residing on Indian lands.

Senator MELCHER. When was that money appropriated? Where are we right now? What funds are we spending?

Mr. STORMER. We are currently in the 1981–82 school year, using fiscal year 1982 funds. We will commence hearings this week for the fiscal year 1983 appropriation, the amount of which hopefully will be known before September 1 for the 1982–83 school year.

Senator MELCHER. Have you dispensed that money?

Mr. STORMER. We have not dispensed all of the fiscal year 1982 funds at this point. We have a continuing resolution running only until March 31. Payments are arriving in the local agencies during this month for the school systems that have not been paid previously.

Senator MELCHER. Is this for this current school year, which is correct to call the 1981–82 school year?

Mr. STORMER. Yes.

Senator MELCHER. So what you are saying is that in the 1982–83 school year, you have not heard from anyone that they are going to close their doors?

Mr. STORMER. No; and to be very frank with you, I have not heard of anybody even commenting on it for 1981, 1982, or 1983.

Senator MELCHER. What I am trying to get at is 1982 and 1983 and what school district would comment at this time? Have you not completed the negotiations for the contracts for the teachers, and have you not arrived at contracts for buses and bus drivers and all that goes with it in running the schools?

Mr. STORMER. For school year 1982–83, this is the time of budgeting for most States. March, April, and May are the concluding months of the preparation of the budget for next year's operations.

Senator MELCHER. How many of them are aware? Have you written every school district and said, "We are going to reduce your impact aid 20 percent next year?"

Mr. STORMER. No; however, I am certain that many of the school districts are aware of the President's proposals and the administration's budget submitted in January.

Senator MELCHER. I wish every school district in this country were aware of what has been proposed for impact aid because we would have a lot of support, not just of the Indian community, which is gradually becoming aware of this, but we would have support clear across this country which would jar this administration to the effect of the withdrawal of impact aid and what effect it has on quality education to those schools that participate because of the Federal responsibility to help educate some of the children involved in the schools.

When that happens, which will not happen very quickly, I think that you will find that there would be a pretty loud cry about the responsibility of the Federal Government for this little part of participation in educational endeavors throughout the country. It is a very small segment of it for those school districts that are involved, and it becomes a very significant one when they have to determine if that money really is not going to flow, and is Congress going to knuckle under to this unwise proposal by the administration? Then they have to determine how big a percentage of cuts they have to make for their teachers.

The obvious result is putting more students in one classroom, buying less books, doing all of the things that Dr. Jones has suggested. They will make their priorities, and without the additional funds com-

ing from somewhere, they have not much priority except to cut the quality of education.

I do not believe that the school districts are actually aware that this might happen. Some of them, which are aware of it, rely on Congress to reverse the recommendations of the administration and appropriate more money.

Let us look at it on the other side, the BIA side. This forces more children to be educated by the Bureau of Indian Affairs, and it will be much more costly to the Federal Government, will it not?

Mr. STORMER. No one can refute that. If some of these children do leave the public schools and go into the Bureau of Indian Affairs' schools, it becomes a 100 percent Federal responsibility for funding.

Senator MELCHER. The 1980–81 amount appropriated for Indian children for impact aid was $147 million. Then this current school year it goes down to about $126 million.

Mr. STORMER. That is correct.

Senator MELCHER. So, between those 2 years, they have a reduction which is $47 million. There is still the inflationary factor in there so that it is even a greater reduction in actual units of education purchased, if I can use that term. Is that not true?

Mr. STORMER. There has not been any consideration for inflation factored into these estimates.

Senator MELCHER. We are talking about, between those 2 years, if the $100 million should end up to be the figure, and the reduction, considering inflation, in excess of 40 percent, perhaps 45-percent reduction.

Mr. STORMER. It is a $47 million decrease from 1981 to 1983.

Senator MELCHER. One year it is $147 million, and this recommendation, if it were followed, would be $100 million.

Mr. STORMER. Right.

Senator MELCHER. Within 2 years you get down to, taking into account inflation, more than the 40-percent reduction. I will not say anything more than that, but it would be more than a 40-percent reduction in the actual educational units purchased by the impact aid funds; is that not correct?

Mr. STORMER. Yes, sir.

Senator MELCHER. Thank you.

Well, obviously that money cannot be found elsewhere. It has to come out of the quality of education for the Indian children.

Mr. STORMER. That is dependent on the local agencies. There are educational systems where impact aid for children residing on Indian lands would run anywhere from less than 20 percent of the operating budget up to nearly 80 percent in one individual situation. So, I guess, on the average, impact aid runs from about 40 to 50 percent of the school systems' budgets. The remaining 50 percent or 60 percent is coming from the State and/or local tax resources.

Senator MELCHER. Senator DeConcini.

Senator DECONCINI. Thank you, Mr. Chairman.

Now, Mr. Jones, are you familiar with the report and recommendations of the Commission on the review of Federal impact aid programs?

Dr. JONES. Yes, sir. I am aware of the study.

Senator DECONCINI. Have you had a chance to look at any of it?

Dr. JONES. When I was a member of the local school board, I was apprised of some of the material in it. That is the extent of it.

Senator DECONCINI. Was that the Fairfax County School Board?

Dr. JONES. Yes.

Senator DECONCINI. You look familiar. Are you still on the board?

Dr. JONES. No, sir.

Senator DECONCINI. What was the position of that board on the reduction of impact aid? Do you know?

Dr. JONES. I refrained from a vote on that issue once I was nominated for this position, but I believe——

Senator DECONCINI. Did not the board object to a lessening of impact aid?

Dr. JONES. I believe that the board is in favor of more impact aid for Fairfax County.

Senator DECONCINI. That is what I recalled. I was not absolutely sure.

Dr. JONES. I believe, sir, that their primary emphasis is on the category "A" student, but not category "B."

Senator DECONCINI. Yes, I understand. I just wanted to call to your attention the three basic recommendations which appear on page 433 of the report. I would like to read them into the record, Mr. Chairman.

A. The Congress recognizes that the United States has a special and unique obligation with respect to the education of Indian children which arises from treaties between the United States and Indian tribes, and that the Impact Aid Program is one of several means by which the United States can, in part, satisfy that obligation.

B. The education of Indian children be available in such a form and in such a manner as will enable them both to perpetuate their existence as Indian people and to function effectively in the majority society, and that decision regarding the conduct of their education should be made by their parents and the tribes of which they are members.

C. To the extent that the education of Indian children is carried out through local education agencies as determined by their parents and the tribes of which they are members, these children should have the full rights of citizens under the education laws of the states, as well as the benefits which accrue to them under the treaties of the United States, and that the Impact Aid program be specifically designed to accommodate those rights and provide, in part, those benefits.

Would you care to comment, Mr. Jones? Did the recommendations from this study, were they seriously considered by the administration in its budget proposals that we are discussing today?

Dr. JONES. I believe it is fair to say that the administration believes in supporting the impacted areas around the Nation. I think the question that we are confronted with is: to what degree? And that is where we are.

Senator DECONCINI. You would say that a 32-percent cut for 1983 from 1981 numbers would still be interpreted as strong support, mild support, or weak support of the impact aid program?

Dr. JONES. It is a Federal commitment. It is recognizing in principle that the Federal Government does have a commitment to these impacted areas.

Senator DECONCINI. Do you anticipate that it will be less for 1984 and 1985? Can we assume that a 32-percent cut in 2 years is all we are ever going to see in this administration?

Dr. JONES. I hesitate to even hazard a guess for 1984, Senator. To be very candid, the first preliminary allowance for the 1983 budget that we received was considerably higher than the one that we eventually ended up with, and therefore, I really have very little assessment as to what 1984 may suggest.

Senator DECONCINI. My last question, Mr. Chairman and Mr. Jones, is: Do you believe that the local and the State governments will be able to supply these funds? Just what is your opinion of our local governments?

Dr. JONES. Well, there are some districts which will have a larger problem in having local funding increased, obviously, and we recognize that and we are sensitive to that.

I think that we would encourage the localities, at least, to be aware of the severance tax dollars that are available through the States and to see how those dollars are currently allocated. Perhaps more of them need to be allocated toward the educational system.

Senator DECONCINI. Arizona does not have a severance tax at least on the mining industry. Do you think that is what we ought to consider doing?

Dr. JONES. Obviously not the State of Arizona, Senator.

Senator DECONCINI. Are you familiar with the State of Arizona at all?

Dr. JONES. Not as much as I wish I were at this point.

Senator DECONCINI. Let me just summarize. The State of Arizona is not known as the bastion of liberalism, thank goodness. The legislature is, indeed, very conservative, and I have here from the Department of State, Secretary of State's Office, a resolution that was passed by the Arizona House of Representatives, which, Mr. Chairman, without objection, I ask be placed in the record at the end of the testimony of these witnesses.

It passed 50 votes to nothing with 10 abstaining, which encourages the continuation of impact aid for school districts on Indian reservations. To me that is a significant position for the State of Arizona, which is very fond of the New Federalism. At least many of the leaders in the legislature, and here both Democrats and Republicans, have joined together, and having talked to some of them, not all of them by any means, but some of them, they seriously believe that the quality of education will be decreased if, in fact, this figure in 1983 is enacted.

So, Mr. Chairman, I would like to have this in the record, and I have no further questions.

Senator MELCHER. It will be made part of the record at this point.

[The resolution follows:]

State of Arizona

Department of State

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

I, ROSE MOFFORD, SECRETARY OF STATE, STATE OF ARIZONA, DO HEREBY CERTIFY THAT THE ANNEXED DOCUMENT IS A TRUE, CORRECT, AND COMPLETE COPY OF HOUSE MEMORIAL 2001, ARIZONA STATE LEGISLATURE, THIRTY-FIFTH LEGISLATURE, SECOND REGULAR SESSION, 1982, URGING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO CONTINUE FUNDING OF IMPACT AID TO SCHOOL DISTRICTS ON INDIAN RESERVATIONS; THAT I AM THE OFFICIAL OF THE STATE OF ARIZONA IN CUSTODY AND CONTROL OF THE ORIGINAL OF SAID DOCUMENT THE LEGAL KEEPER THEREOF.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE GREAT SEAL OF THE STATE OF ARIZONA. DONE AT PHOENIX, THE CAPITAL, THIS 24TH DAY OF FEBRUARY, 1982.

Rose Mofford

ROSE MOFFORD
SECRETARY OF STATE

State of Arizona
House of Representatives
Thirty-fifth Legislature
Second Regular Session
1982

HOUSE MEMORIAL 2001

A MEMORIAL

URGING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO CONTINUE FUNDING OF IMPACT AID TO SCHOOL DISTRICTS ON INDIAN RESERVATIONS.

To the President and Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, the State of Arizona contains within its boundaries a large amount of federal trust land on Indian and military reservations located within the state; and

Whereas, these lands are not available to the state or local school districts for the purpose of property taxes; and

Whereas, these lands held in trust for the Indian people and the military reservations are federal lands not subject to state jurisdiction and the children of people who work and live on these reservations receive their education in the public schools of the State of Arizona; and

Whereas, for many years, in recognition of its responsibility to provide for the education of school age children who live on federal lands and in recognition of the financial hardship imposed on local school districts by the presence of such federal trust lands, the United States government has provided impact aid funds to school districts under Public Law 81-874, and school construction funds under Public Law 81-815. These funds have enabled the school districts affected to provide a free public education for the students without placing an unreasonable burden on a few taxpayers or relying totally on state education funds; and

Whereas, the Office of Management and Budget and the appropriation committees of Congress are contemplating the elimination or severe reduction of federal impact aid funds without proposing any alternative means of meeting the federal obligation to provide for the education of the children in these schools or compensate the affected school districts for the federally-based impairment of their property tax base; and

H.M. 2001

Whereas, elimination of federal impact aid could result in the loss to the State of Arizona of in excess of twenty-five million dollars in education funds. It could cause the local school districts most affected to become totally incapable of supporting themselves, making them completely dependent on state revenues.

Wherefore your memorialist, the House of Representatives of the State of Arizona, prays:

1. That the President and Congress continue federal funding of Public Law 81-874 and Public Law 81-815 for school districts with large federal lands since the State of Arizona considers the provision of adequate funding to these school districts to be an obligation of the federal government and such funding should not be subject to reduction or transfer to the states.

2. That the Secretary of State of the State of Arizona transmit certified copies of this Memorial to the President of the United States, the Director of the Office of Management and Budget of the United States, the Chairmen of the United States Senate and House of Representatives Committees of Budget, Education and Labor and the Select Committee on Indian Affairs and to each Member of the Arizona Congressional Delegation.

Passed the House - February 22, 1982 by the following vote:

50 Ayes, 0 Nays, 10 Not Voting

Filed with the Office of the Secretary of State - February 22, 1982

Senator DECONCINI. I have one question of Mr. Paxton, if I could, Mr. Chairman.

Mr. Paxton, your statement does not mention the proposed transfer of the 815 construction program to the Department of the Interior. Is the Department aware of this proposal?

Mr. PAXTON. The Department of the Interior, Senator, is aware of the proposal.

Senator DECONCINI. Why were there no funds for the program requested?

Mr. PAXTON. The position of the Department of the Interior is that we feel that the construction that has been proposed, even though 57 districts have proposals, should be postponed at this particular time.

Senator DECONCINI. That they are what?

Mr. PAXTON. They are postponable and would not have the highest priority.

Senator DECONCINI. Were any funds requested to administer the program?

Mr. PAXTON. It is my understanding, Senator, that it was the responsibility of the Department of Education. No request came from the Department of the Interior.

Senator DECONCINI. You are assuming that the Department of Education would have the funds to——

Mr. PAXTON. If it is transferred over.

Senator DECONCINI. If it is transferred over there.

Mr. PAXTON. Yes, sir.

Senator DECONCINI. Yes. Could I ask you, Mr. Stormer, would there be funds available for that transfer?

Mr. STORMER. For construction services?

Senator DECONCINI. Yes, sir, of transferring the 815 construction program to the Department of Interior?

Mr. STORMER. There are no funds requested for construction for 1983 in the Indian portion.

Senator DECONCINI. And that is why there is no request for any funds to administer the transfer?

Mr. STORMER. Funds to administer?

Senator DECONCINI. Yes; for the program.

Mr. STORMER. I am not versed in that area. I have been informed that the function, as well as personnel, would be transferred.

Senator DECONCINI. To the BIA?

Mr. STORMER. For BIA and the other agencies to which impact aid would be transferred, I would assume that, in addition to personnel, there would be some administrative funds transmitted.

Senator DECONCINI. Do you know, Mr. Paxton, whether or not $838,000 was requested by the BIA to administer the program?

Mr. PAXTON. My colleague has just reminded me that the Department of the Interior has requested approximately $800,000.

Senator DECONCINI. That is?

Mr. PAXTON. To administer the program for construction that is already proceeding.

Senator DECONCINI. Oh, we could not——

Mr. PAXTON. And I apologize for that.

Senator DECONCINI. No; that is all right. I did not mean to put you in a box because I could not find out. We had heard that was the case, but we could not find it in the budget, and I really just wanted to clarify whether or not the BIA was aware of it and whether or not some funds had been made available.

Thank you, Mr. Chairman.

Senator MELCHER. Thank you, Senator.

I want to just return to one point that was brought up by Dr. Jones. I think you implied, Doctor, that States could find a way if they wanted to through severance taxes.

Dr. JONES. Yes, sir.

Senator MELCHER. Well, would that not require, in almost all instances, a change in the law?

Dr. JONES. No, sir. There already is a law that permits severance taxes.

Senator MELCHER. Well, I am not familiar with all States, but if a State was to set up a provision to provide a portion of severance taxes to be dedicated to Indian children's education, is that what you are referring to?

Dr. JONES. It is my understanding that severance taxes are now levied in the State of Montana——

Senator MELCHER. Pardon me?

Dr. JONES. It is my understanding that severance taxes are levied—

Senator MELCHER. Pardon me? Are levied by the State on Indian lands?

Dr. JONES. The severance taxes are levied under Federal law, title 25 of the United States Code, section 398.

Senator MELCHER. By the State or under Federal law?

Dr. JONES. It is under Federal law.

Senator MELCHER. All right.

Dr. JONES. The States and localities have the permission to tax, as I understand the law, sir.

Senator MELCHER. You are basing your testimony on your understanding of the law on that point?

Dr. JONES. I am not basing my testimony simply on that fact.

Senator MELCHER. Do you have counsel present here?

Dr. JONES. I am simply suggesting, sir, that among ways that the State can allocate or reallocate its resources——

Senator MELCHER. Well, now, Dr. Jones, you know, you are before a Senate committee, and to come up here with extraneous thoughts as part of your testimony and the basis of your testimony alarms me.

Dr. JONES. No. It is not the basis of my testimony, Senator. I am not basing my testimony simply on this.

Senator MELCHER. You are basing your response to Senator DeConcini and to me.

Dr. JONES. No. Part of my response is based on the fact that a State can reallocate resources under its jurisdiction, and some of those resources do come from severance taxes, and I am simply suggesting that they can look at those severance taxes funds and see how they can be reallocated.

Senator MELCHER. Well, would you please give your citation again?

Dr. JONES. It is title 25 of the United States Code, section 398.

Senator MELCHER. You are suggesting that 398, that the States should levy a tax on Indian oil and gas?

Dr. JONES. I am suggesting that those taxes are levied and they are collected.

Senator MELCHER. What you are suggesting is that the State should adopt a law that on unallotted land, on Indian reservations, other than the five civilized tribes in the Osage Reservation, that the States should levy a tax on the Indian oil and gas produced on that tribal land and dole it back to educate Indian children?

Dr. JONES. I am suggesting, sir, that the law allows States to receive a severance tax from minerals that are taken from Indian lands, and for those——

Senator MELCHER. I believe it is oil and gas, Doctor.

Dr. JONES. Among other things, it is oil and gas, yes. There can be other minerals, as well.

Senator MELCHER. Pardon me?

Dr. JONES. There can be more than oil and gas, sir.

Senator MELCHER. Well, just to make it clear, first of all, what States do that?

Dr. JONES. I am told Montana does.

Senator MELCHER. You are told that by counsel?

Dr. JONES. Yes, sir.

Senator MELCHER. Is your counsel present?

Dr. JONES. Mr. Ryan.

Mr. RYAN. My name is Frank Ryan.

Senator MELCHER. Frank Ryan. All right.

Mr. RYAN. In our discussions with the Assistant Solicitor of Interior for Indian Affairs, it was pointed out to us that 25 U.S.C. 398, et seq., other sections pertaining, by Federal law allows the States to impose severance taxes on mineral and energy resources, and that these funds—these taxes——

Senator MELCHER. On Indian lands we are talking about, are we not?

Mr. RYAN. That is right. For coal, uranium, oil, gas, the taxes on these Indian mineral resources go into the State fund, which is then used however a State may wish.

Senator MELCHER. Is that not being litigated?

Mr. RYAN. Pardon?

Senator MELCHER. Is that very point not being litigated now?

Mr. RYAN. One of those sections is being litigated.

Senator MELCHER. So, you are suggesting to Dr. Jones that this be the basis of the testimony on how a State can make up this shortfall when it is being litigated?

Mr. RYAN. That is not the basis of Dr. Jones' testimony.

Senator MELCHER. I know it is not the basis of his testimony. The basis of his testimony is that a State can, or a school district can, make up this shortfall. That is his testimony.

Dr. JONES. Or reallocate its resources.

Senator MELCHER. And, that the response to a question of Senator DeConcini, and now to me, has been that this is one of the options that is available. Well, might I point out that if it is being litigated, does

that not mean that option is not available? Are we to set aside the court case and say well, it is available anyway despite the litigation?

Mr. RYAN. I think that the basic issue here is one of school finance.

Senator MELCHER. Pardon me?

Mr. RYAN. The basic issue here is one of school financing.

Senator MELCHER. Yes, that is right. What else are we talking about?

Mr. RYAN. Well, according to the constitutions of the respective States, there are specific provisions in most of them, that it is a State's constitutional duty and responsibility to provide for the education of its citizens.

Senator MELCHER. Correct.

Mr. RYAN. As a consequence of that constitutional provision, you find the creation of public school districts with the capacity to tax, and in response to the fact that there is Federal land or Federal activity within the borders of States and that this may impose a hardship on the States with respect to the presence of that land and activity, there have been other specific pieces of legislation designed to provide assistance to the States.

Senator MELCHER. Which ones are you referring to, counsel?

Mr. RYAN. Well, I believe Doctor——

Senator MELCHER. You are not referring to this one. You are referring to the past.

Mr. RYAN. I am referring to the past.

Senator MELCHER. What year? It was passed in 1924. You are surely not referring to 398 then.

Mr. RYAN. No. The legislative history of that particular statute goes to the fact that Congress believed that the States were entitled to some share of the revenue with respect to the activity that occurred on Federal lands. It is commonplace for the Federal Government to share a concurrent jurisdiction with the States for Federal activity on Federal lands.

Senator MELCHER. Well, I think really if you are talking about education of Indian children, and you just said that is what we are talking about. Are we not talking about education of Indian children in the coming school year, and does it serve any purpose to tell us what might be possible if certain lawsuits were resolved or certain laws were clarified or certain things were done? How does that relate itself to something where the school year is going to start next September?

Mr. RYAN. Well, let me try to answer it in this way. Before I came to the Federal Government, I was working and teaching at Harvard, and I heard a number of complaints from Indians in America, many of whom had strong feelings about the fact that States were exacting severance taxes on Indian resources, and that this was supporting the State's general fund, but none of the money was coming back to support any of the Indians, and I think that reflects a particular point of view about usage of funds. And one possible use is in the area of education, particularly since these are local education agencies which are creations under State law.

Senator MELCHER. Well, to my knowledge—and please correct me, counsel, because you are supplying the words to Dr. Jones—to my

knowledge not one nickel has been released of any oil and gas or any other mineral revenue from an Indian reservation that has gone or that is being held in escrow in the Montana State treasury, has ever been released for any purpose. If that is wrong, please correct me, Harvard or otherwise.

Mr. RYAN. You are correct. You are correct about the matter which is in litigation.

Senator MELCHER. No, no, correct me. If one nickel of any tax on minerals produced on an Indian reservation, on tribal land, has ever been other than held in escrow in Montana.

Mr. RYAN. I cannot answer that question, Senator.

Senator MELCHER. I do not think you can. I do not think you are equipped at this time, counselor, to provide a statement on a legal point to Dr. Jones, and I hardly think it serves any purpose to come here to a Senate committee hearing to provide us with what your ideas might be without being able to cite what the facts are, and I think that—Dr. Jones, what would lead you to make such a statement without really understanding the facts? Just, you know, it is just sort of surmising what it could be.

Dr. JONES. Well, I take exception to what facts you would expect us to know about the State of Montana, Senator. All we are suggesting is that we ask, or you ask, or local officials become aware of what the Federal law permits States to do.

Senator MELCHER. Pardon me.

Dr. JONES. I said we are suggesting that localities become aware of what Federal law permits States and localities to do for the raising or allocation of their tax dollars. That is all we are suggesting.

We did not come here to provide an embarrassment to the committee or anything of this nature. We are suggesting that if States must allocate or reallocate their resources, that that is a very legitimate function of government. It is a legitimate function of congressional testimony when we are asked, how do the localities get money? We are suggesting they reallocate funds themselves or reallocate from the State level.

Senator MELCHER. Well, you are also evading the point that reallocation, if it could occur on the basis that you suggest in Montana, would have to involve lawsuits, involve something to resolve that, and then probably even an act of the legislature which could not be accomplished before September comes around.

Dr. JONES. I do not deny that that may be the case. On the other hand, Senator, I think it is fair to assume that some States may act favorably and rapidly.

Senator MELCHER. Well, let us assume that, despite litigation to the contrary, the tax could be assessed on oil and gas that is produced on the reservation, and that the tax collected would go to the general fund of the State treasury—Montana or any other State—and that State, already having participated under its basic law for the education of children within the State, what you are suggesting is that somehow that would allow the State to increase their allocation.

Dr. JONES. No, sir. I did not say that. I said reallocate their resources.

Senator MELCHER. All right, would have increased resources.

Dr. JONES. Pardon?

Senator MELCHER. Would have increased resources which could be used to reallocate?

Dr. JONES. No, sir. I am suggesting that whatever State collects severance taxes may use those taxes in its own allocation formula, and they just may wish to allocate more of those funds to the Indian schools or Indian lands.

Senator MELCHER. You know, we are just getting at cross-purposes here. The Bureau of Indian Affairs has been trying to demonstrate to tribes with resources on the reservation to develop their resources as prudently and as wisely as they see fit under Indian self-determination, and then because that is possible, there will be less BIA funding for other programs, and that is being done.

The BIA budget is being cut, and most programs through the Bureau of Indian Affairs for Indian tribes are being cut. So, you know, that is one hand, and then the other hand says, well, we are going to participate less—this is the other hand of the Federal Government—we are going to participate less in the responsibility of education in public schools connected with the Indian children, and they are sort of getting them from both ways. Use their resources to have a stronger base on their own to make up the difference from what programs the BIA is cutting the supporting funds on, and on the other hand, use it also for education that has been—impact aid has made up for those particular school districts.

But in either event, what I am trying to impress upon the Department of Education, in either event, the goal is for the students, in this coming school year, to have an opportunity for quality education; in either event, developing resources or settling some litigation or changing some law within the State can hardly take place in the matter of the few short months between now and the opening of school.

Indeed, the crunch is even more crucial than that, as Mr. Stormer has pointed out, that most school districts are beginning the process for their budgets and trying to determine what those budgets will be for the coming year.

So the suggestion that a resource base is a matter under litigation and could possibly make up the difference is not realistic. It just cannot happen. There have to be other means of making up that difference very quickly, none of which I see available.

I think, having taken a rather significant cut last year from the $147 million to the $126 million, that is about all these school districts can possibly absorb, and that any further reduction is an outright denial of quality education for at least a portion of those 98,000 Indian students in public schools.

I want to thank you all for being here, and I want to thank your counselor for answering our questions, in addition to the three of you. Thank you very much.

Dr. JONES. Thank you, sir.

Senator MELCHER. The next witness will be Carolyn Warner, Arizona State superintendent of public instruction.

Please proceed.

STATEMENT OF CAROLYN WARNER, ARIZONA STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

Ms. WARNER. Mr. Chairman, Senator DeConcini, I am Carolyn Warner, superintendent of public instruction for the State of Arizona, and I am pleased to be able to appear before you.

Coincidentally, my father taught in what we believe to be the first public school in Indian territory, in what is now Carter County, Okla., quite some number of years ago.

In all honesty, I must say that I am pleased to have this opportunity to communicate with you, but I am gravely concerned about the subject that I am here to discuss, the administration's proposed cuts in impact aid funds, and I am extremely disappointed that I, and the others who are here today, must travel across this continent to defend and urge you to defend what should be a matter of equity.

Perhaps I approach the subject from too literal or specific a viewpoint. It seems to me to be just that, a matter of equity. If you take away the resource or the availability of a resource, in this case tax revenues, that you compensate the person or the jurisdiction from which the resource is being removed. That concept, I believe, is the philosophy upon which Public Laws 81–874 and 81–815 are based.

Following this line of reasoning then, it seems to me to be grossly inequitable for the administration to propose a wholesale retreat from this philosophy of equity and to compound it by retreating first from the Federal categorical program which might otherwise have offset the proposed cut in 874 and 815 funds.

Second, to compound the inequity by insisting that under the New Federalism, States and local school districts could or should pick up the slack created by the Federal cuts.

We hear a lot of talk about cutting fat. I can tell you, Senator DeConcini and members of the committee, that we are not talking about fat. For most school districts in Arizona and elsewhere, the fat is just about gone. School district budgets in Arizona have been on a diet for some time, and the cuts we are objecting to today will not, for the hardest hit districts, be hitting fat. They will be hitting bone.

They will be depriving students of the opportunity for a quality, basic education, and I do not believe that that is the intent of the U.S. Senate.

With your permission, I will briefly discuss the impact the administration's proposed 874 and 815 cuts will have on my State, Arizona, the practical impossibility of either the State or the local districts compensating for these cuts, and some additional perceptions which I have about the apparent attitude of this administration toward public education in America as a whole.

In terms of impact aid loss, impact aid is a source of revenue. It is not a supplemental program for education enrichment. It is the Federal Government's contribution to a school district's tax base to compensate for the presence of a Federal activity which diminishes that tax base. It is an equalizer to assure that those impacted districts are not, in effect, financially punished by the presence of a Federal activity for which property tax cannot be collected.

The 874 operational assistance fund and the 815 construction assist-

ance funds are not extras, not gravy, but are substitute revenue for lost tax revenue. Yet, impact aid, 874 and 815, is being treated by this administration as if it were just another education program.

In the 1981 appropriation of $756,750,000, the 1983 request is 286. It is a difference of 62 percent. Public Law 81–874 loss, of the 229 school districts in Arizona, 93 receive both A and B impact aid. Thirty-one of the ninety-three are so-called super A, 20 percent of students qualify for A aid. Sixteen of these thirty-one are Indian reservation districts.

Of 874 funds, we have significant impact for the impacted districts in Arizona. The 1981 entitlement was $38.2 million; continuing resolution, $33 million; a net loss of 15 percent.

Arizona is absorbing its share, plus more, a loss of school district operational revenue. Three Arizona reservation school districts, Chinle, Monumental Valley, and Hopi, received $11.5 million since 1979. The only way they could have gotten construction funds, the same for any heavily impacted district in the United States.

The continuing resolution provides less than the amount needed to build one, single, comprehensive K–12 school plant with an estimated cost today of $10 to $12 million. Yet these funds are those a district cannot practically raise through bonding, since the Federal Government has consumed its tax base.

There are further problems for impacted districts because of the general administration retreat from the Federal role in public education. Enormous cuts in special needs programs, all of which will be even more seriously felt by reservation school districts which have large special need populations: reduction in title I, special ed, bilingual education, Johnson and O'Malley and other special programs will hurt the already hurting.

One example, the super A districts in Arizona are receiving $2.3 million in additional special ed funds. So the administration's cut in impact aid and special education equal a double cut for these districts.

It seems to be conventional wisdom of this administration that if an educational program is really necessary and Federal funding ends, either the State or local districts will pick it up. I have heard that today.

Beyond the equity question of whether or not another level of government should bail out a Federal financial responsibility lies the practical financial question of, can they? I hate to be a bearer of bad news, but at least in the case of Arizona the answer is "No."

The current condition of the economy negatively affects all sources of State and local revenue. The State of Arizona is currently concerned with a general revenue shortfall. This is compounded by both statutory and constitutional spending limitations affecting school district finance.

For example, we have a statutory budget limit; a 7-percent annual increase is permitted plus certain weighted factors. For each school district, it could amount to an overall approximately 9-percent increase.

Second, we have a constitutional aggregate spending limit, a yearly total allowable spending increase based upon the GNP price deflater of approximately 9 percent. It may not be exceeded. School district budgeted expenditures in the State of Arizona for education, $1,110,-

000; the constitutional aggregate spending limit is set at $1,128,000. There is a difference of $18 million. We are 1.6 percent away from touching the ceiling of the absolute constitutional limit for education spending in Arizona.

The very real concern is that we will hit the aggregate constitutional limit with no new programs at all. Reality tells us that at least the State of Arizona is in no financial position to offset impact aid losses.

The real catch-22 of the whole proposition is the notion that impacted school districts can or should make up, out of existing revenues, the local tax revenues lost by the reduction or elimination of Federal in lieu funds.

Some examples might suffice to illustrate the futility of cuts already sustained in 874 funds under the continuing resolution. The district tax rates will rise. Yet in the heavily impacted reservation districts, a district, the Indian Oasis, for example, the rate would rise to $12 per $100 assessed valuation and would need to raise that tax rate an additional $1.70 in order to buy one school bus at $35,000.

If 874 funds are eliminated totally, as the administration's fiscal year 1983 cut of 63 percent from the fiscal year 1981 appropriations seems to indicate, the reservation district tax rates would skyrocket.

For example, the Indian Oasis would be $49.92 per $100 assessed valuation. Rice Elementary District, the tax rate of $79.80 per $100 assessed value, and White River, $96.95 tax rate for $100 assessed valuation and Satatel Elementary, a $98.40 tax rate for $100 assessed valuation.

These are not make-believe figures, and the reaction of what taxpaying entities in those school districts might have can only be vaguely imagined.

In terms of some of the testimony today concerning the retention of schools on Indian reservations should these cuts occur, three Navajo lawmakers said on February 18 that if Federal funding is eliminated, those schools could be forced to close unless the State is able to pick up the burden. I am quoting the words of Representatives Daniel Peaches of Window Rock, Ben Handley of Window Rock, and Senator Art Hubbard, Granado.

In terms of bonding capacity pertaining to 815, the same tremendous disparity exists as in tax rates. For example, and I will give two: In White River, the bonding capacity is presently $594,000, plus. The bonding capacity, if the district were a State average, based on the same administration, same budget, would be $9,572,000. To the city, the bonding capacity would be $5,769,000. If the district were at State average, it would be $26 million.

The largest district, 4,000 students, total bonding capacity could build one modest elementary building, and the problems will become even more serious as the Federal Government moves to close the Bureau of Indian Affairs' boarding schools and day schools in Arizona and other States.

How will reservation schools provide additional classrooms for these students, and whose responsibility is it to provide those funds?

Adequate school facilities on Indian reservations are not abstract concerns. They are very, very real, as are the students who occupy them, as is the lack of a tax base.

The reality, once again, is that impact at local school districts simply lack the availability of resources to compensate for the administration's proposed cuts in impact aid funds; that State governments and/or local school districts can compensate for the substantial loss of impact aid is naive at best and cynical at worst.

I am aware of the need for controlling the growth and reducing the size of the Federal budget. The State of Arizona level where we cannot print money and must therefore pay as we go, we realize that the Federal Government cannot do everything for everybody.

As Arizona superintendent of public instruction, I understand and accept the need for education to share its portion of the cuts. That is fair. We can live with that.

However, I would expect that there would be some equity in these cuts, that Federal assistance to public schools would not be cut from 40 to 80 percent while certain other nondefense budgets would stand fast, or even grow.

I want to say I appreciate the concerns of this committee and also say as an elected official that I appreciate the art of compromise. I did not come this far, Senator DeConcini, simply to complain about the problem and then go back to Arizona feeling satisfied.

So I would suggest to this committee a compromise, a compromise based on what I have already termed the central issue in the impact aid discussion, equity. Perhaps it is unfair to do so, but in Arizona we sometimes compare one budget against another to see if there is, in fact, equity in the way one agency might be treated as contrasted with another.

You may not do that up here, but if you do, I would suggest that you look at a couple that might be relevant. For example, I have noticed that the White House staff budget for fiscal year 1980 to 1982 increases a plus figure of 3 percent: that the fiscal year 1983 request, plus 15 percent; and that the Office of Management and Budget fiscal year 1982 reflects a 9-percent appropriations increase over requests, the fiscal year 1983 request, for an 11-percent increase.

I never realized it took so much money to reduce the Federal bureaucracy and cut back Federal spending.

And my proposal then would be that your committee suggest a compromise figure for impact aid based upon the comparable percentages for these budget units so that the cuts come as they surely must, but be arrived at simply on the basis of equity.

I believe it would be equity since neither the White House staff, OMB, nor impacted Indian reservation school districts have any resource for lost operating or construction funds other than the Federal budget.

I am sure that this compromise will be accepted by our Arizona impacted school districts. I cannot speak for the other two, of course.

In conclusion, Mr. Chairman, my comments regarding a compromise between impact aid and the White House staff and OMB were not intended to make light of these entities or of the tremendous challenges facing this Congress in dealing with the Federal budget. I hope, however, that they have drawn some thought to the inconsistencies in the administration's budget cuts because they are illustrative of an inconsistency which is even more glaring, more serious, and one with

potentially disastrous effects for our Nation. I refer to the administration's dissemination of Federal assistance to education overall, while at the same time placing its full power behind its twin goals of a healthy economy and a strong military.

I support wholly—and I believe most Americans do also—both of these goals. If our Nation is to continue on its upward path, we must be strong economically and militarily. But how can we achieve either goal, if at the same time on a full-scale retreat in the Federal commitment to the one institution, education, upon which both economic health and military strength depend.

Granted, the Federal share of public school education expenditures is less than 20 percent of the total. For Arizona, it is only about 11 percent. Most of these funds are targeted toward the special needs students who depend upon additional help, and it costs money. When those special students are on Indian reservations, the need becomes even more acute.

Education, Mr. Chairman, the opportunity for a quality education, is absolutely essential to increased productivity, to a skilled work force, to intelligent use of resources, all of which are keys to economic recovery.

Education is equally essential to an Armed Forces based on the research, design, production, and operation of weapons systems which are themselves high-tech devices.

Education, Mr. Chairman, does not take place in a vacuum. It does not just take place in placid suburban school districts. Education takes place all over this land, including our Indian reservation, where it depends just as much upon good teachers and adequate facilities and learning materials as in any other school district.

There is one important difference, however. In Indian reservation school districts and other school districts where there is a heavy concentration of Federal activity, there is a limited private sector tax base to help pay for the things needed for schools to operate. That is why Congress, in its wisdom, enacted impact aid legislation so that the tax burden in those districts would not unfairly punish the private sector tax base, and would not deprive those school districts of needed resources.

Impact aid has gone a long way toward acceptance of the Federal involvement within a community, especially that Federal involvement brought about because of the military. Taxpayers are not always a happy lot, but they do accept their responsibilities more readily when the tax burden seems to be fair and equitable.

In Arizona, fairness and equity are present, and local taxpayers know and understand that the Federal Government is paying part of the bill caused by higher school costs related to the Federal activity. Without the support, the attitude that will be taken by many is that the Federal activity is more of a burden than it is worth, and we do not want to even consider seriously the consequences to a local community if this action is to prevail.

I do not believe Congress is willing to see this happen.

As I said at the beginning of my testimony, I cannot believe Congress is willing to accept the notion that equity is not a matter of Federal concern. The equity problem is, in fact, created by a Federal presence.

Mr. Chairman, I am confident that your committee will weigh carefully the testimony you have received today and will receive. I am confident that you and this committee possess the sense of equity apparently lacking in other areas of the Federal Government, and I am confident that you will do all in your power to correct the inequity upon which this hearing is focused.

I saw an illustration of the destruction of a building. It was called "under destruction." They set the dynamite blast, they lighted the fuse, and what they indicated was the Olympic National Life Building is blasted into rubble in downtown Seattle. It took less than 10 seconds to collapse a 12-story structure. It will take 20 days to clear the debris and 3 years to rebuild the replacement structure.

I think that is an adequate illustration of what is being seriously considered by this administration.

On behalf of the State of Arizona and the public schools of our State, I want to thank you, Mr. Chairman, and to thank this committee for the opportunity to appear before you. Thank you very much.

Senator MELCHER. Senator DeConcini.

Senator DECONCINI. Thank you.

Superintendent Warner, thank you for an excellent statement. It gives me great pride that you are so well prepared and, quite frankly, offered a compromise or some suggestions. So often people approach us here, and probably the administration feels the same way, of either put up or shut up. You put up something, and I thank you for that. That will be helpful to us.

One thing I would like to clarify from the statement that Mr. Jones indicated: In your judgment, as superintendent of public instruction, if the proposed budget reduction should go through, would, in fact, the quality of education for these impacted Indian schools be less or would it deteriorate?

Ms. WARNER. It would deteriorate considerably, Senator DeConcini and Mr. Chairman.

Senator DECONCINI. There is no question in your mind then that the State or the local schools would not be able to come up with the necessary funding to maintain that quality?

Ms. WARNER. Mr. Chairman, the existing taxpayers, particularly in reservation school districts, would be unable to get the additional funds that would have to be levied for an equal quality level.

Senator DECONCINI. So it is not a question of whether or not they could do it. They would be unable, based on your statement, on at least these five schools you mentioned. Obviously you could not have a Sacaton Elementary School having a tax rate of $98.40 per $100 value, could you?

Ms. WARNER. Unless confiscatory taxation is approved.

Senator DECONCINI. I think you make the point very well that the quality of education, of course, as pointed out by Mr. Jones, does have a great deal to do with what the programs are, what is taught in the classroom, and the amenities and the physical structures, but of course, that takes dollars to provide those.

Ms. WARNER. Indeed, it does.

Senator DECONCINI. And without the impact aid, your testimony is very clear. At least in the State of Arizona, those dollars would not be

forthcoming, and I think it is safe to say that the quality of education for Indians would be less.

You were superintendent, were you not, Ms. Warner, when the Chinle School District on the Navajo Reservation experienced its financial problems several years ago?

Ms. WARNER. Yes, indeed.

Senator DECONCINI. Could you give us a brief description of what happened and how the problem was resolved and how severe it was, for the record, please?

Ms. WARNER. Mr. Chairman, Senator DeConcini, I would be happy to do so. We have representatives here today from the Chinle School District who can speak more pointedly to the issue, but——

Senator DECONCINI. Well, if you could tell us from the standpoint of your office.

Ms. WARNER. It was a very serious problem for Chinle in that there was the probability of millions of dollars of lost funding to that school district. Through the good offices of our Representatives in Washington, we were able to see that some of those funds were restored.

Senator DECONCINI. My recollection is—and I will ask the members of the Chinle School District—that it was on the verge of closing. Is that accurate?

Ms. WARNER. That is correct.

Senator DECONCINI. In your judgment, if the 1983 Reagan administration budget on impact aid were adopted, would you care to speculate as to the potential of school closings?

Ms. WARNER. Mr. Chairman, Senator DeConcini, and referring to the case that you have raised; that particular school district used the device of registering warrants, of borrowing money, in order to pay teachers. Teachers like to eat, as a general rule, the same as many of us, and there was a great deal of concern that all teachers would also begin to leave that school district not knowing, with the uncertainty of whether the funds would, in fact, be forthcoming.

It seemed like we might be talking about a replication, only on a more permanent basis, of that emergency situation which was eventually solved. I see no solution, however, in this case should the administration's cuts become a matter of fact.

Senator DECONCINI. Is it safe to say, Ms. Warner, that that might apply to some of these other districts that you mentioned in your statement, Indian Oasis, Rice Elementary, White River, Sacaton, and others?

Ms. WARNER. Indeed.

Senator DECONCINI. Thank you very much again for your testimony and statement.

I have no further questions, Mr. Chairman.

Senator MELCHER. Thank you very much, Superintendent. We very much appreciate your testimony. It was very much to the point and very helpful to the committee.

Senator DECONCINI. I would also, Mr. Chairman, just like to note that Ms. Warner at great sacrifice of her time came all the way from Arizona. It is not like driving over from Maryland and Virginia, and we really appreciate the State of Arizona being able to bear the cost, and you being here and your time for the deliberations here.

I hope that is an example to the administration and to members of this committee and the Senate that it is a serious matter.

Ms. WARNER. Thank you, Senator DeConcini and Mr. Chairman.

Senator MELCHER. Thank you very much.

I am going to call the panel now because I am going to have to be leaving pretty soon. Let me get the Montana panel on while I am here, Senator. These are all representatives of the public school districts of Montana: Tommy Thompson, assistant superintendent of the Browning Public Schools; Bert Corcoran, superintendent, Rocky Boy's Public Schools; Wayne Johnston, director of special projects, Poplar Public Schools; and Caleb Shields, Fort Peck Tribal Council.

The time that the committee has on it today is that all witnesses shall have to be heard prior to 12:30, and that unfortunately, or it may be fortunately, for your edification, we took more time than we had thought we would take with the administration witnesses, but we better understand their position now, and our hearing record is more complete because of having taken that time with them, but it does limit our time for the rest of the witnesses.

All of your statements will be made part of the record. I think what would best serve our purposes is to ask questions of each of you. The pertinent ones have been already defined after we talked to what the administration has in mind and what their suggestions are as solutions.

I have to remind everyone that the hearing record on this hearing can only remain open 3 days because the committee must make a recommendation to the Budget Committee on this very matter. So ordinarily we would have the hearing record open for a couple of weeks, but in this instance, we must have it open for only 3 days so the committee can act on a budget recommendation for the Budget Committee.

STATEMENTS OF TOMMY THOMPSON, ASSISTANT SUPERINTENDENT, BROWNING PUBLIC SCHOOLS; BERT CORCORAN, SUPERINTENDENT, ROCKY BOY'S PUBLIC SCHOOLS; WAYNE JOHNSTON, DIRECTOR OF SPECIAL PROJECTS, POPLAR PUBLIC SCHOOLS; AND CALEB SHIELDS, FORT PECK TRIBAL COUNCIL

Senator MELCHER. I would like to ask each of you on this panel: do you believe your school system can continue to operate if the impact aid money is at the level recommended by the administration in the fiscal year 1983 budget?

Mr. THOMPSON. Tommy Thompson.

Senator MELCHER. Yes; let us start with you, Tommy, and just go right across.

Mr. THOMPSON. First of all, I would like to thank Chairman Melcher and Senator DeConcini for allowing Browning Public Schools and the Blackfeet Tribe to be represented today at today's hearing.

I do have prepared testimony, about 17 pages, that illustrates, sir, that no, in fact, we cannot continue to offer quality educational services to our students with any further reduction in impact aid.

If I might take a moment to illustrate that. The Carter recommendations for a recision in fiscal year 1981 and carried through by President Reagan essentially lost for our district $62,000 at the high school level and $165,000 at the elementary level. That, the net effect

of those early recisions in fiscal year 1981, was the near elimination of an already scanty budget reserve, making any kinds of cash reappropriation for fiscal year 1982 impossible and any kinds of hopes for school construction or renovation also impossible.

Our district overall, both high school and elementary, depends on impact aid funds for at least 60 percent of our budget. On page 9 of my testimony, I illustrate that impact over the course of 5 years.

To be more specific, during the 1980–81 school year, our high school general fund budget was $1.5 million. The impact aid share was over $687,000 or 46 percent. In addition to that, our transportation budget was 17 percent impact aid. Our comprehensive insurance budget was 43 percent impact aid.

At the elementary level, 47 percent of our general fund budget was made up by impact aid funds, and 38 percent of our lunch fund and 60 percent of our comprehensive insurance.

I think there are some other statistics that have to do with our situation that further illustrate our great dependence on impact aid and the inability we would have to educate our children with further reductions in impact aid.

Our district is located totally within the confines of the Blackfeet Indian Reservation. We are within Glacier County in northern Montana. Seven hundred and seventy-seven thousand acres, or, in other words, 58 percent of our district, are in tribal or U.S. trust, nontaxable status, and zero percent of that is on tax rolls. Tribal deeded land comprises only 26,000 acres, or 2.04 percent of our total tax base, and of that, 2 percent is on the tax rolls.

Privately owned land, either corporation, Indian or non-Indian, comprises 39 percent. So of our total taxable amount of land base, only 40 percent is in taxable status.

I also have a document that illustrates for the entire State of Montana the number of mils needed if the Reagan proposals do come through. This is based on fiscal year 1982, on approximately 84 percent of 1981 funding and for fiscal year 1983 at 58 percent of funding and for fiscal year 1984, our information is that our impact aid funds will equal 25 percent of the 1981 base.

Some of the more dramatic ones, if we look at fiscal year 1984 Hays Lodge School, for example, would have to raise 1,700 mils to replace the lost impact aid money. Browning High School would have to raise 113 mils. Rock Boy's, which is represented here today by Mr. Corcoran, would have to raise 4,500 mils.

I would like to have this document which illustrates the heavy dependence the entire State has on impact aid and the virtual impossibility of recouping those funds from any sources, either local or State, entered into our testimony.

[The document follows. Testimony resumes on p. 68.]

Browning Public Schools

School District #9

Browning, Montana

INVOLVEMENT IN/DEPENDENCE ON

PUBLIC LAW 81-874

THE IMPACT AID PROGRAM

Prepared by:

Tom Thompson
Assistant Superintendent

February 10, 1982

97-159 O - 82 - 4

I. INTRODUCTION

The purpose of this document is to discuss several concerns relative to the President's recommended reductions in payments to school districts via P.L. 874 (Impact Aid). The subsequent impact on Browning Montana, Public Schools shall also be displayed via documentation of the dependence this district has on P.L. 874 funds. Other district P.L. 874 "problems" (current/potential) shall also be presented.

In addition, an overview of the Impact Aid Program especially as it pertains to "Super A" public school districts which enroll American Indian students shall be provided.

II. IMPACT AID: AN OVERVIEW

Public Law 81-874, the Impact Aid Act was created by Congress in 1950 to provide financial assistance to public school districts which educate the children of military personnel and other federal employees and which include tax-exempt military bases or other federal property within their district boundaries.

Funds received from the Impact Aid program are "in lieu" of the local property taxes that would be collected if the property were not owned by the Federal Government. The funds are included in the general operating budgets of the school districts. The law does not require any specific use of these funds, except that they cannot supplant or replace funds that the district is entitled to under any state aid program.

Students who are eligible to be counted by public schools requesting Impact Aid assistance are grouped into three distinct classifications. The first classification involves students whose parents live on and work on federally owned or controlled property which is tax-exempt. These students are referred to as "A" children. As stated on pp. 3, Indian students whose parents live on federally owned or controlled tax-exempt property, regardless of where they work, are counted as "A" children.

The second classification involves students whose parents live on but work off federally owned or controlled tax-exempt property or live off but work on said tax-exempt property. These students are referred to as "B" children.

Public school districts also identify Indian Special Education students since this classification generates Impact Aid funds at 187.5% of the basic entitlement rate.

There are three different methods which may be used to determine how much Impact Aid a school district will receive for each eligible student. This is called Local Contribution Rate (LCR). Montana uses the Individually Selected Comparable District method whereby five "comparable" districts are identified to compute an "average" cost per pupil which then becomes the Local Contribution Rate. (Amount of Impact Aid funding per each eligible student.)

The Montana Office of Public Instruction computes the local LCR by dividing all locally generated funds by the total enrollment. This process ultimately works in direct opposition to the intent of the law. (School districts on Indian reservations have little if any taxable land. Thus, few local funds are generated via mill levies. When the Office of Public Instruction computes the annual LCR, five "comparable districts" are chosen which must be within $50.00 of the local district receiving the LCR. Thus the "poor" districts become poorer and the "rich"-richer.)

Although some Indian children originally benefitted from the Impact Aid Program, there was concern about a possible duplication between this program and the Johnson-O'Malley Program. In 1958, the Impact Aid Program was amended to specifically include public schools educating children residing on Indian lands, since said lands are also tax-exempt. At this time, the Johnson'O'Malley Act was amended to be a supplemental program instead of one designed for basic school support.

Public Law 81-874 (Impact Aid) has been reauthorized periodically and numerous revisions have been made. The Education Amendments of 1974, Public Law 380, included two revisions of Impact Aid which directly affected public schools educating children residing on Indian lands. These amendments allowed any children who resided on Indian lands to be counted in the "A" category for full entitlement regardless of where

their parents were employed. The amendments also provided an additional 50% of the per pupil entitlement for Indian children receiving special educational services. These two changes took effect in 1976.

P.L. 95-561, the Education Amendments of 1978, reauthorized the Impact Aid program for five more years. Impact Aid Program amendments increased payments for Indian "A" students by 25%, increased payments for Indian special education students by 37.5%, insured the equal participation of Indian children in the school program, and required the dissemination of information to, and the involvement of, the tribes and parents of Indian children concerning the school program. These amendments require a school district to establish policies and procedures by November 1, 1979, to insure increased participation of Indian parents and tribes in the education process.

III. CARTER/REAGAN PROPOSALS

President Carter's FY82 budget as sent to Congress in January, 1981, included in the education budget, a call for deep cuts in the federal Impact Aid Program. For 1982, President Carter's budgets recommended no payments for "B" children and no payments for "A" children in those districts where "A" children comprise less than 20% of the enrollment. For those districts where "A" children comprise 20% or more of the enrollment 90% of the entitlement would be paid.

For FY81, Mr. Carter proposed a recission of 145 million dollars. The recission would provide payments to all eligible applicants at 75% of the amount appropriated for FY80.

In (March, 1981) the Reagan administration proposed Impact Aid changes for FY82 to make payments for "A" children in "Super A" districts (those districts with 20% or more "A" children enrolled) at 90% entitlement; payments for "A" low-rent housing children in "Super A" districts would be limited to 20% entitlements; and payments to "B" military or civilian children would be eliminated. In FY81 the payments for maintenance and operations assistance were subsequently made at 90% of a district's entitlement via a national recission of 67 million dollars. This reduced Browning Public Schools income by approximately $165,000 at the elementary level and $62,000 at the secondary level. The overall effect of the 10% reduction was the near elimination of the school district's budget reserve.

More recently (February, 1982) President Reagan has requested that the Congress eliminate all "B" category funding and limit the "A" category funding to 80% of the FY82 "A" payment. The FY82 payment is set for approximately 86% of the FY81 payment.

The President has also proposed that FY83 payments be computed at 80% of the FY82 "A" student entitlement with no payments for "B" students. This proposal would mean that school districts would receive approximately 68% of their FY81 "A" student entitlement.

The following chart illustrates the effect of the President's proposals on Browning Public Schools.

PRESIDENT'S IMPACT AID PROPOSALS
IMPACT ON BROWNING PUBLIC SCHOOLS

	B1 Payment	A Payment	B Payment	B2 Payment	A&B Loss	B3 Payment	A&B Loss
Browning H.S.	611,882	610,973	909	525,437	85,536	415,462	195,511
Browning Elem.	1,626,971	1,624,809	2,162	1,397,335	227,474	1,104,870	519,939

The net effect on Browning Public Schools and on other similarly effected districts would be the closing of many reservation public schools.

Thousands of Indian children, entitled to an equal educational opportunity by law and treaty, would then become the total responsibility of the Federal Government.

The government would then have to open Bureau of Indian Affairs schools at an estimated cost of nearly twice the operating cost of the Impact Aid Program.

IV. BROWNING PUBLIC SCHOOLS

Browning Public Schools, District #9, is located within the exterior boundaries of the Blackfeet Indian Reservation and serves a local tribal population of more than 8,000 members. Several hundred non-tribal members reside on the reservation as well.

The district is comprised of a high school, a junior high school, three elementary schools, three rural elementary schools and two rural (Hutterite Colony) attendance centers. The high school district (grades 9-12) enrolls approximately five hundred students while the elementary district (grades K-8) enrolls approximately fourteen hundred students. The overall enrollment is approximately 95% Blackfeet, 3% other Indian, and 2% non-Indian.

Browning Public Schools transports more than 60% of its students on seventeen bus routes, the longest of which is 100 miles (complete route). The average bus route is 42 miles (complete route).

Approximately 90% of all students are eligible for Title I services and for free or reduced price lunches. This reflects the fact that Browning is a low-income community where the average family annual income is less than $4,000 dollars.

The district employes 146 certified (instructional and administrative) personnel and 115 non-certified (support) personnel.

The Board of Trustees is committed to the provision of an equal educational opportunity to all students who attend Browning Public Schools. The reduction in Impact Aid and in other important educational program funds is severely impairing the efforts of the Board; however.

V. DISTRICT 9 DEPENDENCE ON IMPACT AID

The following profile of District (high school and elementary) budgets illustrates the overall dependence of Browning Public Schools on the receipt of Impact Aid funds. In general, each district is primarily dependent on Impact Aid in the following categories:

1. General Fund (maintenance and operations)
2. Transportation (bus service)
3. Comprehensive Insurance (facilities)
4. School Lunch (food service)

It should also be noted that the overall budget for each district (22 possible categories) is comprised approximately of:

1. Impact Aid funds:	60%
2. State & County funds:	36%
3. District Levies:	4%
TOTAL	100%

IMPACT AID DEPENDENCE: 1975-1981

YEAR	DISTRICT	FUND	TOTAL BUDGET	IMPACT AID SHARE	% IMPACT AID DEPENDENCE
80-81	High S.	General	1,500,186	687,963	46
80-81	High S.	Transp.	151,505	25,000	17
80-81	High S.	Comp. Ins.	30,600	13,175	43
80-81	Elem.	General	2,667,784	1,247,789	47
80-81	Elem.	Transp.	295,527	50,000	17
80-81	Elem.	Lunch	512,000	195,000	38
80-81	Elem.	Comp. Ins.	50,000	30,000	60
79-80	High S.	General	1,294,719	596,459	46
79-80	High S.	Transp.	134,871	46,302	34
79-80	High S.	Comp. Ins.	34,801	34,801	100
79-80	Elem.	General	1,642,195	926,545	35
79-80	Elem.	Transp.	203,293	53,992	26.5
79-80	Elem.	Comp. Ins.	52,209	42,000	80.4
79-80	Elem.	Lunch	419,268	50,000	11.9
78-79	High S.	General	996,678	373,993	37.5
78-79	High S.	Comp. Ins.	20,840	20,000	95.9
78-79	Elem.	General	2,548,701	939,670	36.8
78-79	Elem.	Transp.	132,801	20,000	15
78-79	Elem.	Comp. Ins.	34,362	32,000	93.1
78-79	Elem.	Lunch	450,602	59,129	13.1
77-78	High S.	General	1,087,909	508,842	46.7
77-78	High S.	Transp.	122,183	42,000	34.3
77-78	Elem.	General	2,269,041	775,611	34.1
77-78	Elem.	Transp.	204,599	84,000	41
77-78	Elem.	Lunch	310,002	25,000	8
76-77	High S.	General	899,785	385,701	42.9
76-77	Elem.	General	2,165,670	758,533	35
76-77	Elem.	Transp.	147,977	60,844	41.1
75-76	High S.	General	802,124	256,978	32
75-76	High S.	Transp.	98,907	45,000	45.5
75-76	Elem.	General	1,969,795	587,293	29.8
75-76	Elem.	Transp.	143,634	45,200	29.4

The district's dependence on Impact Aid funds can be further illustrated by reviewing the following chart which illustrates the lack of taxable land within the district thus negating the ability of Browning Public Schools to generate maintenance and operation funds via local voted levies:

GLACIER COUNTY (DISTRICT #9) LAND PROFILE

LAND CATEGORY	ACRES	SQ. MILES	% OF TOTAL RESERVATION	% ON TAX ROLLS
1. Tribal & US Trust (non-taxable)	777,925	1215.50	58.86%	0%
2. Tribal, Deeded (taxable)	26,917	42.06	2.94%	2.04%
*3. Privately owned Indian & non-Indian (taxable)	516,831	807.55	39.10%	39.10%

NOTE: The above data was documented from 1978 Land Re-Classification, State Department of Revenue, Glacier County Reclassification Office.

The above chart illustrates that approximately 60% of the district's land base is non-taxable. A few large corporations are the primary sources of local tax revenues and each year the corporations (Burlington Northern Railroad, several petroleum companies, etc.) pay their taxes under protest. As stated earlier local tax levies account for only 4% of the total school district budget.

* Since 1978, approximately 50,000 acres of previously taxable (fee status) land owned by individual Indian owners was put back into non-taxable (trust status) category per the Act of June 18, 1934-48 Stat. 985. This, of course, further illustrates an ever decreasing amount of taxable land within the district and an increasing dependence on Impact Aid funds.

Any decreases in the Impact Aid program will severely limit the district in the provision of educational services. Contrary to popular belief, Indian students (in Montana public schools) generate no funds for basic support from tribal or Bureau of Indian Affairs sources. State and County revenues plus Impact Aid funds account for more than 95% of the total educational budget. If either are reduced, affected school districts have no other funding alternatives.

VI. CURRENT/POTENTIAL PROBLEMS

Browning Public Schools currently experiences several problems relative to the receipt of Impact Aid funds:

1. Cash flow - The cash flow of P.L. 81-874 funds has always been a problem for Browning and other "Super A" districts. Each year Browning schools reappropriates an insignificant amount of funds to begin the ensuing school year. In the Fall (September) a preliminary payment is requested. P.L. 95-561 authorizes the issuing of an amount equal to 75% of the previous year's entitlement 30 days after the start of the new fiscal year, if the district submits a request for a preliminary payment. However, since the Impact Aid Program is not forward funded and since the Congress does not appropriate funds on a timely basis, but rather passes a continuing resolution as the fiscal year draws to an end, the district does not receive the preliminary payment until late November or December.

2. Interest Charges - The Montana system of school finance/business, mandates that state/federal funds be deposited with the County Treasurer. The treasurer then becomes the custodian of all moneys. (20-9-202RCM). The treasurer's office then becomes analogous to a bank. County warrants (checks) are used to transact business. Whenever a district does not have sufficient funds to cover expenditures, area banks are requested to "guarantee" payment and assess the treasurer's office with interest which is subsequently charged to school district account(s). This process is referred to as "registering warrants". (20-9-222RCM). Since Browning Public Schools does not receive its Impact Aid (preliminiary payment) funds until December, each year the district must register warrants and pay interest (at the "going

rate") for those warrants that the treasurer's office was not able to pay due to insufficient funds in the districts' account(s). Thus the annual late receipt of Impact Aid funds causes the district to undergo not only "cash flow" problems but also reductions in revenues due to assessed interest charges that stem from said "late" receipt of funds.

3. Fiscal/Programmatic Planning Problems - Since the school district never knows exactly when Impact Aid funds will arrive nor the exact amounts to be received, all types of intelligent planning are limited at best. Teachers and other staff salary negotiations are a prime example: As each year ends and negotiations are entered into, the school district administration and Board of Trustees are forced to negotiate salaries for the ensuing year without assurance of a specified amount of revenues to expect from Impact Aid. Browning Public Schools thus negotiates without assurance of the receipt of approximately 60% of its overall budget.

4. Potential Problems - Each new administration (since Eisenhower) has attempted to reduce the Impact Aid Program. Each administration has been unsuccessful. Should the Reagan proposals to further reduce Impact Aid entitlements be accepted, heavily impacted school districts would be placed in deeper financial straits. As stated earlier our district reappropriates an insignificant amount of money in each district to begin the ensuing school year. The loss of any/all revenues would force us to end the school year with virtually no budget reserves. Browning Public Schools would be totally unable (financially) to operate for the entire term of the 1982-83 school year. Should the Congress accept the Reagan proposals to pay districts at 80% of FY81 "A" entitlement this year and next, the district would be forced to end school early and not meet the mandates of the Montana School Accreditation Standards.

The problems listed above are not all inclusive but rather the more pressing ones that the district faces each year.

II. SUMMARY

In summary, this document has addressed the following issues relevant to the Browning Public Schools involvment in and dependence on the Impact Aid Program:

1. Public Law 81-874, the Impact Aid Program, has several amendments that specifically address the unique status of Indian lands and educational finance;

2. The Reagan Administration has effected a resission of Impact Aid funds for FY81 and 82, and has proposed further reductions for FY83 and 84.

3. Browning Public Schools, District #9, is located within the exterior boundaries of the Blackfeet Indian Reservation; 60% of the lands are non-taxable;

4. Browning Public Schools is dependent on Impact Aid funds for approximately 60% of its overall budget; and has virtually no other alternatives to generate funds to replace Impact Aid revenues.

5. Any reduction in Impact Aid funds would have disasterous consequences for Browning Public Schools and other school districts affected by the presence of Indian lands;

6. The district suffers "cash flow" and other problems due to the current structure of the Impact Aid Program; and

7. The district recommends that prior to changing the Impact Aid Program and/or eliminating a percentage of its funds, that the Congress study carefully the potential impact on those schools affected by the presence of Indian lands.

VIII. CONCLUSION

In conclusion it is the recommendation of School District #9 administration and Board of Trustees that prior to any changes in the Impact Aid Program, the Congress assess totally the potential impact of said changes on those districts whose lands are in trust (non-taxable) status and whose finances and future are greatly dependent on the Impact Aid Program.

Those "Super A" districts affected by the presence of Indian Reservation lands are unique and must be studied carefully.

In 1958, the Congress included Indian students as eligible to generate Impact Aid funds since Congress realized that the Indian Reservations were analogous to other federal installations in that the lands were not taxable and thus basic school support was severely limited by their presence.

It should also be noted that the Indian people and Indian nations have a unique historic and legal relationship with the federal government. Indians are unique from other minorities since virtually every tribe's membership has been guaranteed the right to an education as provided for in the hundreds of treaties the tribes and the federal government entered into during the 19th century.

Further, the 81st Congress created the Commission on the Review of the Federal Impact Aid Program. The Commission in its report to the Congress on September 1, 1982, recommended, among several other recommendations:

I. "That the Impact Aid Program authorized by P.L. 874 be continued";

II. "That all entitlements under the Impact Aid Program be funded fully..."; and

III. "That:

(a) The Congress recognize that the United States has a special and unique obligation with respect to the education of Indian children which arises from treaties between the United States and Indian tribes and that the Impact Aid Program is one of several means by which the United States can, in part, satisfy that obligation;

(b) The education of Indian children be available in such a form and in such a manner as will enable them both to perpetuate their existence as Indian people and to function effectively in the majority society and that decisions regarding the conduct of their education should be made by their parents and the tribes of which they are members; and

(c) To the extent that the education of Indian children is carried out through local educational agencies, as determined by their parents and the tribes of which they are members, these children should have the full rights of citizens under the education laws of the States, as well as the benefits which accrue to them under the treaties of the United States, and that the Impact Aid Program be specifically designed to accomodate those rights and provide, in part, those benefits."

Finally, the Reagan Administration has effected or has proposed numerous other reductions in program funds that heavily impact on the social and educational well-being of American Indians.

The overall quality of life on Indian reservations, already lower than mainstream America, is eroding even further. Felix S. Cohen in "The Erosion of Indian Rights, 1950-53, A Case Study in Bureaucracy" Yale Law Journal, vol. 62 (1953), pp. 390, stated:

> "Like the miner's canary, the Indian marks the shift from fresh air to poison air in our political atmoshere...our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall of our democratic faith."

The United States Commission on Civil Rights in its June, 1981, report entitled "Indian Tribes, A Continuing Quest for Survival" state that several years have elapsed since Cohen's supportive statements for Indian people. Similarily several shifts in policy toward Indians have transpired. The point is the same; however, as the Commissioner's report illustrates:

"if this society through its government does not live up to its promises and commitments to Indian people, then no rights are secure. A society is not judged by how well it treats its rich or politically powerful members but by how well it treats its less powerful groups. Indians are perhaps the least powerful group in American society."

The Board of Trustees, School District #9, Browning, Montana, on behalf of the Blackfeet people, urge the Congress to recognize its committment to American Indians, fund fully the Impact Aid Program and other educational programs that affect American Indians, and thus further assist the various Indian tribes in their quest for self determination.

THE BLACKFEET TRIBE

OF THE BLACKFEET INDIAN RESERVATION

BROWNING, MONTANA 59417

EXECUTIVE COMMITTEE

EARL OLD PERSON, CHAIRMAN
ARCHIE ST. GODDARD, VICE-CHAIRMAN
CHARLES CONNELLY #1, SECRETARY
ELOUISE C. COBELL, TREASURER

TRIBAL COUNCIL

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LEONARD MOUNTAIN CHIEF
GEORGE KICKING WOMAN
JERRY SHOW
PHILIP M. RATTLER, JR.
JOE SHOW

March 3, 1982

Mr. Steve Barcus, Chairman
Board of Trustees
School District No. 9
Browning, MT 59417

Dear Mr. Barcus:

The Blackfeet Tribal Business Council has reviewed the testimony of the Board of Trustees, School District No. 9, regarding the continuation of P.L. 81-874, Impact Aid. P.L. 81-874 funding comprises approximately 60 percent of the Browning Public School operating budget and approximately 70 percent of the Heart Butte School operating budget. The rumored reduction of P.L. 81-874 funds would force the closure of our schools. The Blackfeet Tribe does not have resources to assist the public schools to continue to offer basic educational programs.

Therefore, the Blackfeet Tribal Business Council fully supports and endorses the testimony of the Board of Trustees, as attached, and further urges the present Administration and the Congress of the United States to mandate the continuation of the P.L. 81-874 funds at a level which assures our children an education comparable to that of the rest of the United States. The Blackfeet Tribal Business Council will also adopt a Resolution in support of P.L. 81-874 at the next scheduled session. A copy of said Resolution shall be forwarded at that time.

If we may be of any further assistance in this matter, please contact my office.

Sincerely,

Charles J. Connelly, Secretary
Blackfeet Tribal Business Council

CJC:ag

Mills Required to Fund Proposed Loss

		'81 Taxable Valuation	'82 Loss	Mills to Fund	'83 Loss	Mills to Fund	'84 Loss	Mills to Fund
2	Lodge Grass High School	78,698,203	72,959	.93	179,693	2.28	315,163	4.00
2	Lodge Grass Elementary	2,548,372	77,764	30.52	194,921	76.49	343,621	134.84
2	Pryor	802,227	19,243	23.99	50,512	62.96	90,200	112.44
17H	Hardin High School	802,227	27,788	34.64	72,942	90.92	130,254	162.36
	Hardin Elementary	29,819,254	56,111	1.88	135,936	4.56	237,252	7.96
29	Wyola Elementary	28,198,713	151,188	5.36	362,886	12.87	631,581	22.40
12	Harlem High School	1,283,014	33,420	26.05	83,082	64.76	146,116	113.89
12	Harlem Elementary	6,374,404	21,834	3.43	54,483	8.55	95,922	15.05
50	Hays Lodge Pole Elementary	3,063,781	45,518	14.86	115,426	37.67	204,154	66.63
80	Hays Lodge Pole High School	106,760	39,286	367.98	103,125	965.95	184,151	1,724.91
1	Great Falls Elementary	106,760	25,001	234.18	65,628	614.72	117,192	1,097.71
A	Great Falls High School	77,752,146	273,147	3.51	477,868	6.15	737,707	9.49
5	Centerville	79,075,802	86,550	1.09	134,285	1.70	194,872	2.46
F	Simms High School	1,754,013	1,513	.86	1,513	.86	1,513	.86
29	Belt Elementary	3,480,116	1,704	.49	1,704	.47	1,704	.49
97	Sun River	4,911,957	2,056	.42	2,056	.42	2,056	.42
CO	Custer County High School	906,711	1,445	1.59	1,445	1.59	1,445	1.59
1	Miles City Elementary	21,064,005	5,736	.27	5,999	.28	6,332	.30
6	Columbia Falls High School	12,785,634	12,106	.95	12,716	.99	13,490	1.06
6	Columbia Falls Elementary	23,128,085	5,131	.22	6,804	.29	8,928	.39
58	Olney Bissell	23,128,085	11,511	.50	14,448	.62	18,176	.79
7	Bozeman High School	1,102,290	1,318	1.20	1,318	1.20	1,318	1.20
7	Bozeman Elementary	38,421,737	8,758	.23	8,758	.23	8,758	.23
69	West Yellowstone Elementary	31,726,182	13,063	.41	13,664	.43	14,426	.45
9	Browning High School	2,581,796	2,091	.81	4,057	1.57	6,551	2.54
9	Browning Elementary	11,734,987	98,665	8.41	257,518	21.94	459,139	39.13
		10,776,805	262,131	24.32	684,582	63.52	1,220,769	113.28

Mills Required to Fund Proposed Loss

#2

		'81 Taxable Valuation	'82 Loss	Mills to Fund	'83 Loss	Mills to Fund	'84 Loss	Mills to Fund
	East Glacier Elementary	958,182						
1	Granite High School	2,825,384	2,240	.79	2,240	.79	2,240	.79
1	Philipsburg Elementary	2,825,384	3,569	1.26	3,569	1.26	3,569	1.26
G	Box Elder High School	1,263,131	28,548	22.60	74,938	59.33	133,818	105.94
13	Box Elder Elementary	1,263,131	25,132	19.90	65,515	51.87	116,772	92.45
A	Havre High School	29,876,996	12,130	.41	28,274	.95	48,764	1.63
6	Havre Elementary	24,686,637	6,921	.28	14,388	.58	23,866	.97
87J	Rocky Boy	79,840	76,480	957.92	201,759	2,514.52	358,499	4,490.22
7J	Charlo High School	2,156,822	1,663	.77	3,445	1.60	5,707	2.65
7J	Charlo Elementary	1,489,152	4,275	2.87	8,650	5.81	14,202	9.54
22	Elmo	197,589	2,746	13.90	7,208	36.48	12,871	65.14
23	Polson High School	14,805,225	10,202	.69	23,894	1.61	41,273	2.79
23	Polson Elementary	12,385,965	24,368	1.97	59,258	4.78	103,543	8.36
28	St. Ignatius High School	2,013,953	13,995	6.95	35,219	17.49	62,156	30.86
28	St. Ignatius Elementary	2,013,953	34,126	16.94	86,900	43.15	153,883	76.41
30	Ronan High School	5,475,638	18,543	3.39	44,509	8.13	77,467	14.15
30	Ronan Elementary	5,475,638	54,835	10.01	133,569	24.39	233,501	42.64
8	Arlee High School	1,317,166	11,875	9.02	30,058	22.82	53,132	40.34
8	Arlee Elementary	1,317,166	36,061	27.38	92,127	69.94	163,287	123.97
1	Helena High School	55,010,621	6,342	.12	7,061	.13	7,974	.14
1	Helena Elementary	35,495,297	14,968	.42	14,968	.42	14,968	.42
3	Warren	5,263,002	3,360	.64	3,360	.64	3,360	.64
2	Kessler	2,688,534	2,987	1.11	4,296	1.60	5,957	2.22
9	East Helena	7,359,407	1,632	.22	2,008	.27	2,486	.34
38	Lincoln	1,442,183	901	.62	901	.62	901	.62
45	Augusta High School	3,953,010	3,216	.81	4,252	1.08	5,566	1.41
13	Eureka Elementary	3,571,163	14,521	4.07	15,580	4.36	16,924	4.74

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Mills Required to Fund Proposed Loss

		'81 Taxable Valuation	'82 Loss	Mills to Fund	'83 Loss	Mills to Fund	'84 Loss	Mills to Fund
CO	Lincoln County H.S. (Eureka)	5,464,534	8,533	1.56	10,029	1.84	11,928	2.18
1	Troy Elementary	3,098,349	13,498	4.36	13,498	4.36	13,498	4.36
1	Troy High School	3,815,380	5,804	1.52	5,804	1.52	5,804	1.52
4	Libby High School	20,113,671	23,435	1.17	23,831	1.18	24,334	1.21
4	Libby Elementary	20,113,671	41,104	2.04	42,443	2.11	44,143	2.19
15	Central	3,027,735	960	3.17	960	3.17	960	3.17
53	Trego	697,423	2,221	3.18	2,566	3.68	3,005	4.31
6	St. Regis Elementary	1,324,873	5,671	4.28	5,957	4.50	6,321	4.77
6	St. Regis High School	1,573,905	3,372	2.14	3,668	2.33	4,043	2.57
3	Superior High School	2,623,474	4,065	1.55	4,200	1.60	4,372	1.67
3	Superior Elementary	2,654,058	5,606	2.11	6,130	2.31	6,795	2.66
1	Missoula Elementary	75,293,553	17,924	.11	17,924	.24	17,924	.24
Co	Missoula County High School	110,580,312	19,821	.18	20,332	.18	20,981	.19
23	Target Range	4,472,405	3,665	.82	5,400	1.21	7,601	1.70
32	Clinton	1,765,339	1,379	.78	1,379	.78	1,379	.78
34	Seeley Lake	1,041,966	1,894	1.82	2,569	2.47	3,425	3.29
40	Frenchtown High School	15,887,257	2,604	.16	2,858	.18	3,179	.20
40	Frenchtown Elementary	15,887,257	3,718	.23	4,874	.31	6,342	.40
6	Gardiner High School	1,575,574	12,044	7.64	25,691	16.31	43,013	27.30
6	Gardiner Elementary	1,133,532	9,608	8.48	14,893	13.14	21,601	19.06
2C	Dodson High School	2,240,454	9,407	4.20	21,843	9.75	37,627	16.79
2A	Dodson Elementary	2,011,477	3,818	1.89	8,866	4.40	15,273	7.58
14	Malta Elementary	8,710,374	3,513	.40	3,706	.43	3,951	.45
24	Malta High School	9,782,924	2,580	.26	2,799	.29	3,076	.31
18	Valier Elementary	4,982,174	3,632	.73	8,800	1.77	15,358	3.08
18	Valier High School	6,469,394	10,254	1.59	26,277	4.06	46,615	7.21
1	Heart Butte	101,080	28,940	286.31	75,609	748.01	134,842	1,334.01

Mills Required to Fund Proposed Loss

#4

		'81 Taxable Valuation	'82 Loss	Mills to Fund	'83 Loss	Mills to Fund	'84 Loss	Mills to Fund
Co	Powell County High School	12,685,585	2,488	.20	2,488	.20	2,488	.20
1	Deer Lodge Elementary	6,713,417	2,371	.35	2,371	.35	2,371	.35
	Corvallis Elementary	3,537,994	4,226	1.19	4,226	1.19	4,226	1.19
3	Hamilton High School	8,400,412	7,135	.85	7,135	.85	7,135	.85
3	Hamilton Elementary	8,400,412	7,840	.93	8,393	1.00	9,094	1.08
9	Darby Elementary	4,043,199	5,527	1.37	7,992	1.98	11,122	2.75
9	Darby High School	4,043,199	2,304	.57	3,639	.90	5,334	1.32
9B	Poplar High School	6,699,192	39,704	5.93	101,40[illegible]	15.15	179,913	26.86
9	Poplar Elementary	6,699,192	77,217	11.53	201,019	30.01	358,153	53.46
	Culbertson High School	3,431,167	2,530	.74	6,094	1.78	10,617	3.09
17	Clubertson Elementary	5,504,855	7,007	1.27	17,915	3.25	31,759	5.77
45	Wolf Point High School	9,255,901	10,056	1.09	24,737	2.67	43,371	4.69
45	Wolf Point Elementary	5,622,889	39,984	7.11	102,365	18.21	181,542	32.29
55	Brockton High School	464,823	21,092	45.38	53,139	114.32	93,814	201.83
55	Brockton Elementary	46[illegible],823	30,767	66.19	79,559	171.16	141,488	304.39
6	Lame Deer	135,855	84,188	619.67	220,995	1,626.64	394,633	2,904.70
32	Ashland	1,561,328	20,530	13.15	43,626	27.94	72,940	46.72
19	Colstrip	75,784,630	52,831	.70	119,650	1.58	213,343	2.82
1	Plains High School	3,203,733	2,010	.63	2,195	.69	2,429	.76
1	Plains Elementary	2,671,747	5,805	2.17	6,607	2.47	7,625	2.85
2	Thompson Falls Elementary	4,922,198	4,294	.87	4,294	.87	4,294	.87
6	Trout Creek	3,769,423	3,228	.86	3,228	.86	3,228	.86
9	Di[illegible]on Elementary	667,670	10,468	15.68	25,216	37.77	43,934	65.80
10	Noxon Elementary	4,377,747	3,286	.75	3,621	.83	4,047	.92
10	Noxon High School	8,624,595	3,215	.37	3,957	.46	4,899	.57
14	Hot Springs High School	2,222,051	4,114	1.85	7,360	3.31	11,480	5.17
14	Hot Springs Elementary	1,493,874	6,859	4.59	13,436	8.99	21,784	14.58

		'81 Taxable Valuation	'82 Loss	Mills to Fund	'83 Loss	Mills to Fund	'84 Loss	Mills to Fund
1	Butte High School	54,231,740	20,436	.38	20,436	.38	20,436	.38
1	Butte Elementary	50,619,780	19,696	.39	19,696	.39	19,696	.39
1	Glasgow Elementary	10,116,325	23,405	2.31	46,815	4.63	76,529	7.56
1	Glasgow High School	10,116,325	8,672	.86	16,144	1.60	25,627	2.53
28	Frazer High School	2,303,596	14,610	6.34	37,547	16.30	66,659	28.94
2	Frazer Elementary	1,154,054	20,794	18.02	54,584	47.30	97,472	84.46
13	Nashua Elementary	2,225,690	2,053	.92	2,988	1.34	4,175	1.88
13	Nashua High School	2,377,487	4,508	1.90	9,969	4.19	16,899	7.11
21	Fort Peck	151,797	9,556	62.95	24,162	159.17	42,701	281.30
	TOTAL:		2,606,349		3,686,310		9,604,123	

Senator MELCHER. All right. Caleb, can you answer the same question?

Mr. SHIELDS. Yes, sir.

Senator MELCHER. Do you believe your school system can continue to operate if the administration's budget is adopted?

Mr. SHIELDS. Mr. Chairman, I am representing the Fort Peck Tribal Council. I have with me today an employee of the Poplar School District who has those statistics, but initially, I am aware that of the four school districts on the Fort Peck Indian Reservation, possibly two of them would be closed and the remaining two would be operating on a reduced amount of impact aid moneys.

I am here today, Mr. Chairman, to express the concerns and position of the Assiniboine and Sioux Tribes of Montana over the effects of the proposed slash in impact aid funds on the Fort Peck Reservation.

The fundamental error in the slash is that it lumps Indian reservations in with the cut in nationwide impact aid funds. The slash is made without discernment and completely fails to recognize the Federal responsibility to Indians.

From the beginning, the United States has included provisions for education in Indian treaties. Indians were wards of the Federal Government, not the States. Education was the tool the white man thought would civilize the Indian so that peace could be maintained and ultimately the Indian would be assimilated into non-Indian society.

The treaties and appropriation acts covered every phase of education, including the construction of school buildings, staffing with teachers and other personnel, books and facilities, kitchens and dormitories where children lived, all paid for by the United States.

At Fort Peck, up to 1934, our children attended the single Indian school on the reservation. The school was located in Poplar. This meant it had to be a boarding school. Children from Wolf Point, Brockton, Frazier, and some from Poplar lived at the school. The Bureau paid for the room, board, teachers, books, and all other services.

Since about 1934, Indian children on the Fort Peck reservation have attended the public schools at Wolf Point, Poplar, Brockton, and Frazier. Today the children go to a public school near their homes. They live at home, not at a school dormitory. The United States pay the costs of the impact of Indian children on the local schools.

If the United States does not pay, we are worried that the local school districts and towns will not have enough money to take care of the Indian children.

Indians on the reservation are not in the same category as Federal employees living in an impacted area. The admirals and generals who live in Alexandria or Arlington, Va., across the river, own their own homes, pay real estate taxes, pay personal property taxes, pay State sales taxes and State income taxes. They provide a tax base.

Indians on the reservation pay no real estate taxes on their trust land. On the reservation they pay no personal property tax or sales taxes or State income taxes. They provide no tax base to support schools.

Without money, the public schools cannot operate. The United States cannot shift its responsibility for reservation Indians to the State.

How can we force our small towns to provide for public school education to Indian children on the reservation? How can this cost be laid on the backs of non-Indian farmers and ranchers in our rural area, especially in these difficult times?

If that happened, you can well understand the resentment of our non-Indian neighbors. The reservation would not be a very happy place to live.

For my tribes, I submit that the proposed cuts in impact aid are made without understanding. The United States cannot rightfully avoid its special obligation to Indians by trying to pass off that responsibility to the local towns and school districts.

Whatever else is cut, a full measure of impact aid for Indian pupils on the reservation must be provided, and in conclusion, Mr. Chairman, I am aware that in Montana there are approximately 29 schools that do receive impact aid funds, and with the proposed reductions, approximately 8, or 28 percent, of those could be closed due to the reduction in impact aid funds.

Thank you.

Senator MELCHER. Well, Mr. Shields, I assume you also spoke for Poplar public schools.

Bert, could you speak for the Rocky Boy's public scchools?

Mr. CORCORAN. I guess there is an area here, Senator, that nobody has really ever mentioned, and this is that area that we call self-determination and education, and I guess I am here today not only to speak on quality, but also on self-determination by a community of Indian people to raise their standards of education, and I think you are aware of it. You have been a part of it. We have relied on you. We have worked with you.

In this instance, to give a little background here, in 1960 we went from the Bureau of Indian Affairs to a public school district. We had something like 260 children in 1960 in the classroom, in 7 classrooms. Today we have about 300 and some children in 15 classrooms. This has all taken place because Indian people wanted to experience a better education for their children.

Now what we are talking about is doing away with that type of situation because in the 1981–82 school year, we are holding our own. The proposed cuts in the 1982–83 school year are going to reduce our budget by $79,000. In 1983–84 school year, we are going to reduce our budget by $231,000, and all I can say at that time then, Bureau of Indian Affairs, here we come.

Senator MELCHER. Wayne, I want to ask a different question. I assume that what Caleb has said is correct: about 28 school districts would be reduced—8 of them closing--leaving 20 to operate. Do you feel that the State would, or could adopt a policy quickly enough so that school districts such as yours could somehow be funded out of some Federal block grants?

Mr. JOHNSTON. No. At the present time, the State legislature will not meet for another year. There is no way that the State could adopt any type of law or pass any type of law that would bail us out.

Senator MELCHER. So it is impossible in our case.

Mr. JOHNSTON. That is right.

Senator MELCHER. I suspect in other States it is the same.

One other question on that, Wayne. Does the school district hold title to the building?

Mr. JOHNSTON. Yes, they do. All four of the public school districts on the Fort Peck Reservation holds title to the school building, and because of that, with Frazier and Brockton particularly, with the cut for next year in impact aid, they will probably have to close their doors.

That will shift the burden to Wolf Point and to Poplar to educate those children. We estimate, with the closing of the boarding schools, that can throw another 200 students into our school district, and with the cut in impact air, we are going to have to reduce the quality of education at Poplar to a bare minimum. By fiscal 1984, we would probably be turning away those children who live on trust land because we could no longer educate them.

Senator MELCHER. Well, at Poplar right now, what is the percentage of students that are Indian?

Mr. JOHNSTON. Seventy-two percent at Poplar.

Senator MELCHER. Then you said Brockton would close?

Mr. JOHNSTON. Brockton would close.

Senator MELCHER. What is that, about 90 percent Indian?

Mr. JOHNSTON. It is more than that. There are only 13 Anglos at Brockton out of a total of 153 students.

Senator MELCHER. So that one would close?

Mr. JOHNSTON. That one would close.

Senator MELCHER. When you say "quality of education," what do you mean; you are going to double the size of the class per teacher?

Mr. JOHNSTON. Probably we would have to double the size of our classes, by cutting staff. We would have to cut the support staff, such as our counseling programs, our vocational programs, et cetera, and we would probably be looking at classrooms of around 30 to 35 students.

Senator MELCHER. What are you at now?

Mr. JOHNSTON. We are trying to hold, in the elementary, at 20 which we consider a maximum for the quality education at Poplar.

Senator MELCHER. That is on elementary?

Mr. JOHNSTON. On the elementary.

Senator MELCHER. And then when you get into eighth, ninth grade?

Mr. JOHNSTON. The elementary is kindergarten through eight. In 9 through 10, we are running approximately 12 to 15 per interstructional staff. But, of course, we have more course offerings.

Senator MELCHER. That is generally recognized throughout Montana as about the proper level?

Mr. JOHNSTON. Yes.

Senator MELCHER. Now, when the Brockton school close or any school closes on Indian reservations, that building belongs to the school district.

Mr. JOHNSTON. That belongs to the school district and the State of Montana.

Senator MELCHER. And will not be given to the BIA?

Mr. JOHNSTON. That is correct.

Senator MELCHER. So the BIA must somehow have to make some sort of a contract arrangement with the school district?

Mr. JOHNSTON. That is right.

Senator MELCHER. That is what was described this morning by the BIA witness.

What does that do? Is that cheaper for anybody?

Mr. JOHNSTON. I estimate that if the Bureau of Indian Affairs has to take over the education of these Indian children, it will cost them approximately 300 percent more than what the 874 is costing.

Senator MELCHER. I do not know how it would work. I do not know whether they would get any money from the State. Would they, or would they not?

Mr. JOHNSTON. We would get no money from the State.

Senator MELCHER. Because that goes to a public school district?

Mr. JOHNSTON. That is right.

Senator MELCHER. So what is being proposed here is to somehow—when the Montana Legislature is not going to meet in 1982—somehow the State is supposed to rearrange its funding to help these school districts to make up for the portion of dropoff in impact aid funds, which is an impossibility. I am just making this point. That is impossible.

Mr. JOHNSTON. Yes.

Senator MELCHER. Second, if that is impossible and the Brockton school is closed, could the BIA pick it up? The answer to that is probably, not quickly enough, I guess. Is that about right, they probably will not get it done quickly enough?

Mr. JOHNSTON. I do not think they would be able to get it done, and from what I hear, the BIA would not have funds in the first place to pick it up.

Senator MELCHER. But if they did, it is going to cost them a lot more money.

Mr. JOHNSTON. That is right.

Senator MELCHER. Which defeats the basic purpose of the impact aid fund.

Mr. JOHNSTON. That is right.

Senator MELCHER. Because the purpose is to save money. So to save money you would spend more money. That does not make any sense at all.

I think the same is true on Browning.

Mr. THOMPSON. That is true.

[The prepared statement of Mr. Johnston follows:]

PREPARED STATEMENT OF DONALD W. JOHNSTON, SPECIAL PROGRAMS DIRECTOR, POPLAR PUBLIC SCHOOLS, POPLAR, MONT.

I would like to make the following statements on behalf on the Fort Peck Tribal Government and the Public Schools located on the Fort Peck Indian Reservation. I would, also, like to address the same thoughts for those schools near the Fort Peck Indian Reservation.

The Public Schools on or near an Indian Reservation or a Military Establishment are State and Local Institutions of Learning. They are supported by Local and State Tax Dollars. This means that for every parcel of land that is non-taxable in the local school district there are fewer tax dollars generated for the support of the local school system.

This is the case on the Fort Peck Indian Reservation or any other Indian Reservation or Military Establishment. At this time over 48 percent of the land that is in the Poplar Public School District is Trust Land or non-taxable land. This means that there is a greater tax burden on the local taxpayer to support

the local schools. However, over 72 percent of the local school population comes from Trust Lands. This 72 percent of the school population is made up of Indian Children and Children of the B.I.A. and Public Health Employees.

A question could be asked here about why are these lands non-taxable? The answer is simple. The Federal Government by law has given these land non-tax status. One of the reasons that these lands are non-taxable is because the Federal Government by treaty agreed to support the Indian People who live on Indian Reservations. The Government agreed to help house these people, give them health care, feed them and to educate them.

At the resent time Public Law 874 is the main support by the Federal Government to educate the Indian Children. However it should be pointed out that at the present funding level of P.L. 874, the Federal Government does not meet one half of the educational cost of these Indian Children and the Children of the Federal Employees on any Indian Reservation. The following is a breakdown of the P.L. 874 funds received by the Public Schools on the Fort Peck Indian Reservation and those schools near this Reservation:

Fort Peck Indian Reservation

Public school Public Law 874:	*Fiscal year 1981*
Frazer Public Schools	202,777
Poplar Public Schools	716,528
Wolf Point Public Schools	298,972
Brockton Public Schools	313,031
Nashua Public Schools	27,224
Culbertson Public Schools	56,291
Fort Peck Elementary School	56,746

It is estimated that these public schools will receive 86 percent of fiscal year 1981 entitlement a reduction of 14 percent for fiscal 1982. With the inflation factor introduced, it is found that there will be a reduction of spending power by these public schools of 21+ percent for fiscal 1982.

For the fiscal year 1983 if the Congress approves the Administration and Office of Management and Budget recommendation P.L. 874 will be reduced by 31 percent from the fiscal 1981 entitlement. This will be a loss of $225,430.00 in the Poplar Public School's General Fund Budget. In order to make up this budget loss the Tax Payers of this School District would have to vote an additional 20.5 mills. A study over the past 5 years reveals that the Tax Payers in this district has voted an average of 55 mills over the State Permissive Levy, the State and County Equalization levy, Transportation levy, and Fringe Benefits levy.

The question then becomes what will happen if the Federal Government does not continue the level of funding for P.L. 874 at the fiscal year 1981 level? There are several possible answers to this question.

1. The Public Schools will have to ask the Tax Payers for additional money to operate the schools at their present level of operation. The getting of these additional funds through this measure will be almost impossible because of the present economic climate.

2. The schools will have to cut back of services to the students in the form of course offering, extra curricular activities, and staff. This will be a severe loss to the students in these schools.

3. The States will have to increase the Foundation Payments to these schools. This too will be almost impossible because of the present economic conditions.

4. The final alternative would be that the schools will have to close their doors to those students who are living on Trust and other Federal Lands. This will lead to the B.I.A. and other Federal Government Agencies having to educate those children. The cost of this type of education to the Federal Government will be probably 300 percent greater than the cost of the Public Law 874 Program at the fiscal year 1981 level of funding.

With the present recommendations by the Administration and Office of Management and Budget by fiscal year 1983 two of the schools on the Fort Peck Indian Reservation will have to close their doors because of the lack of funds to operate and because of very low tax base. These two schools are Brockton which receives 65+ percent of its operation funds from P.L. 874 funds and Frazer which receives 52 percent of its operational funds from P.L. 874. It might be pointed out that a new school building was completed and occupied at Brockton two years ago at a cost to the Federal Government of 1.5+ million

dollars and that Frazer has just received funding from the Federal Government for 4+ million dollars to construct a new elementary and high school. The Poplar Public School has received 4.2 million dollars to construct a new Middle School for Grades 5-8 that will not be fully used because of the lack of funding to staff and supply the instructional materials needed to operate it.

Senator MELCHER. Caleb, would you like to comment?

Mr. SHIELDS. I would just like to bring out another point, Mr. Chairman. The double jeopardy of the Indian education picture is, you know, the Bureau of Indian Affairs has closed two Indian schools, and there are plans to close five additional Indian schools. This, in turn, would increase the enrollment on the reservations that will be experiencing the proposed impact aid funds. So the Bureau is reducing Indian education by closing boarding schools across the Nation and increasing enrollment at the reservation level in public schools. At the same time the public schools will be reducing the reduction in impact aid funds.

Senator MELCHER. Gentlemen, thank you. As they say in the legal profession, you rest your case very well as to the cost to the Federal Government if, indeed, these closings occur. We appreciate your coming all this distance and giving us firsthand knowledge from the trenches. Thank you.

We will now hear from Mr. David Silva, county school superintendent, Apache County. Right after Mr. Silva, we will then go to the panel representing school districts in Arizona and also any representatives of the Navajo Tribe.

Mr. Silva, we apologize for the time that has elapsed here, and I must advise you and the remaining witnesses today that by order of the Senate, we have to cease holding hearings at 12:30 because of the pending resolution regarding Senator Williams. So if you would help us by summarizing your statement, we will put your complete statement in the record. Thank you for being here.

STATEMENT OF DAVID SILVA, COUNTY SCHOOL SUPERINTENDENT, APACHE COUNTY, ARIZ.

Mr. SILVA. Mr. Chairman, Senator DeConcini, members of the committee, it is a pleasure to be here on behalf of Apache County.

Apache County lies in the extreme northeast of the State. In terms of the affect that impact aid will have upon students in the county, it will have a very negative, unquestionably.

We have nine districts in Apache County. There are about 10,000 students that benefit from impact aid. Seven of the nine districts receive impact aid. I cannot help but express a concern that I have especially for those who are in receipt of lesser amounts of Federal impact aid.

The dollar figure that was thrown out earlier of $5,000 for a cutoff point, we have one district in our county that would receive less than that. They have no representation here. It would have a severe impact on that particular district.

In Apache County, about 9,000 students, Navajo students, who during the year of 1980 and 1981 were in receipt—the districts were in receipt of about $10 million. From the $10 million figure, we have a 15-percent, 20-percent cut. We are looking at a $2 million shortfall there.

Unquestionably, again, those moneys would directly affect programs in the classroom, but one of the main areas of concern is in the area of

transportation where funds are used. You must remember that in Apache County, because of the remoteness of the districts that are in receipt of those impact aid moneys, students, for the record—and very few people know this outside of the county, even in the State—take a bus at 5:30 in the morning in order to reach class, and they do not get home until 6. They travel great distances. I think the longest run of a particular bus route is about 90 miles.

Senator MELCHER. Ninety?

Mr. SILVA. Ninety miles.

You can see if transportation costs are to be reduced what effect that might have. I am sure that some students, probably those routes that are in the remote areas, probably would not be receiving students. That would be my guess.

We do have some representatives here from the Chinle District who have the students who travel those great distances.

I made a note here that concerns me greatly, and that is in the responsibility of the Federal Government to the education of the Indian students, the students of the impacted areas, because in Apache County we have those students who are in receipt of both 874 moneys, type A and type B. As a taxpayer, I see that there is a direct responsibility on our Government to educate those students in impacted areas.

The analogy I make in that responsibility is a private industry, such as the Salt River project in one of the local districts that does not pay taxes. They do not pay taxes because they have the industry there and the assessment is there. They can be taxed.

With tribal lands, they are unable to, of course, raise those taxes.

In the area of the Department of Agriculture where the Forest Service has its headquarters in the smaller district, they have about 40 of the 65 students. It seems to me there is a direct responsibility when they have that kind of impact upon a community.

Certainly, we can cite example after example of those industries and businesses that come into a community where they do pay direct taxes and even subsidize the community in many other ways, as in the community to spend $400,000 for pavement of roads, such as St. Johns, and direct grants for scholarships, et cetera.

In seems to me when the impact aid was approved back in 1952 that this was very well thought out, and it seems to me, from what I am experiencing, that the Federal Government is beginning to take a second look.

It is my impression that the Federal Government is beginning to renege on its responsibility to these people. I concur with the superintendent of instruction, who was Mrs. Warner. It seems to me there could be a compromise worked out. It seems to me that the compromise would be in the funds that are available in the area of impact aid, and the Bureau of Indian Affairs.

Apache County has three BIA schools, to my knowledge. There may be more, but I did not work with the Bureau of Indian Affairs' schools. I have no knowledge of what amounts are expended in Apache County for BIA. It seems to me that this is an area that could be looked at as far as—and I would not like to suggest that the BIA schools close their doors or the public doors close their doors, but it seems, as a matter of convenience because of the proximity of the BIA schools to the public schools, that perhaps there is a duplicity in the educational effort.

I certainly, as a public official, am not in a position to say that you, as a public official, are not fully aware of how the consolidated effort could be made, but I think this is an area that we need to look at.

I would like to leave myself open for questions regarding the impact of a particular district within Apache County if there are any questions that I might answer regarding those schools. I would be most happy to answer those questions.

Thank you, Mr. Chairman.

Senator DECONCINI [presiding.] Thank you for being here and taking the time from your school district, and I wish to express our appreciation to members of your school boards in your county, with you being the superintendent there, and the other citizens of Apache County for having you here today.

It is very important to us. You mentioned a compromise also, which I think is helpful today. I wonder whether or not we can pursue the possibility of funds that would be saved or reduced from closing BIA schools if a portion of that—not all of it, so there would still be a savings—could be shifted to the impact aid.

I, for one, would like to see those figures. We will be working on that.

I wonder: Will Apache County be able to provide the additional funding to these schools if this reduction, as proposed by the administration in 1983, is done?

Mr. SILVA. Unquestionably, Apache County is not currently in a position to provide any additional financial assistance to the schools or to the students.

Senator DECONCINI. In your opinion, will any of the school districts in Apache County be able to sustain and to equal that loss of revenue?

Mr. SILVA. Out of the seven districts that currently receive the impact aid moneys, I believe there is one that possibly could take up some of the slack.

Senator DECONCINI. So six would be unable, in your opinion, to meet the loss of those funds?

Mr. SILVA. Six, most definitely, would be unable to provide additional assistance.

Senator DECONCINI. Would it be your judgment under those circumstances, as laid out in the record, Mr. Silva, that the quality of education for the Indian children attending those schools would be less?

Mr. SILVA. Now, Senator, I believe I would like for the record to say that I believe those districts that currently are receiving impact aid, that four of the seven's standards are below the State's standards. So to receive less, they would be even more handicapped.

Senator DECONCINI. Is there any question that quality would deteriorate if the 1983 funds should be adopted?

Mr. SILVA. No question.

Senator DECONCINI. Now, if you are going to reduce funding the dollars amount, if it is not augmented in some other place—and from your testimony you have given, it is very clear that only possibly one out of seven districts could supplant any of those funds—then the quality of education is going to suffer.

Mr. SILVA. Yes. I happen to be in that particular district, and I personally, as a taxpayer, would be strongly opposed to taking up the

slack. I do not think it is our responsibility. I believe it is the responsibility of the Federal Government.

Senator DECONCINI. Thank you very much, Mr. Silva.

We will now go to a panel of representatives from the State of Arizona. We will have Mr. Zahrt and Mr. Jon Colvin, Mr. Graham, and Mr. Edwards. We will also take the witnesses who are here representing the Navajo Tribe. If they would all come forward at this time.

Due to the restraints of our time, we will ask that you all appear here. Let me by introduction indicate that when we set these hearings, we had no idea we would be under this time constraint at 12:30. So we would ask that your statements be submitted in the record, and if you do not have a full statement, the record will be open for 3 days. We would be glad to have them at that time, and if we can start over on the right.

Mr. Graham, if you proceed to just introduce your statement and summarize it as quickly as possible because we are running short of time.

STATEMENTS OF PATRICK GRAHAM, SPECIAL PROJECTS DIRECTOR, WINDOW ROCK SCHOOL DISTRICT; WALT ZAHRT, SUPERINTENDENT; JON COLVIN, PRESIDENT, GOVERNING BOARD, CHINLE ELEMENTARY DISTRICT; AND CLIFTON EDWARDS, SUPERINTENDENT, WHITERIVER UNIFIED DISTRICT

Mr. GRAHAM. Very quickly, my name is Patrick Graham. I am special projects director for the Window Rock School District on the Navajo Nation in Arizona.

I would like very quickly to make one comment in regard to what Mr. Paxton, I believe, said earlier; that it was his opinion that no money had to be requested for 815 because projects were postponable. I am not quite sure which ones you were referring to.

Window Rock High School burned down in April of 1980. We are perhaps one of the more dramatic examples of need for 815 funds. Window Rock had a video tape and Chinle brought one that we will not be able to show today. The video tape showing the normal day of operation in our school districts are comparable to programs you see on TV when there is a disaster because of extreme snowfall or rain in many areas.

We desperately need funds for school construction.

The talk of compromise has been brought up. We would be happy even to see 815 converted into a loan program. Our program is our assessed valuation is so low in Window Rock, our maximum bonding capacity is $2 million, and we have to replace an entire high school for 1,000 students. If we could borrow the money from the Federal Government, as they do with Chrysler and New York City, and pay it back over a period of years out of our bonding capacity, I think most school districts would be happy for that.

Every district on the Navajo Nation. every public school district, has an application pending right now with the 815 office.

A very quick comment in regard to quality of education under 874. Window Rock has a $9 million budget this year. Almost $3 million of

that is supposed to come from impact aid. To date, we have received $1.8 million. I understand there is a chance that if an allocation formula is not determined when this continuing resolution ends this month, we might not receive the rest of our money before the end of our school fiscal year. This could mean as much as $1 million deficit for Window Rock this year.

At least three districts in a meeting the other night, said that they would have to freeze salaries for next year due to the reduction in funding. Some of these have a starting teacher's salary of $11,200 as a low. The quality will be diminished very quickly because any good teachers will find they can make more money somewhere else, and we will lose staff.

We are all having to cut back on extra programs designed to meet the needs of our students who come from bilingual and low-income backgrounds.

I will stop there. Thank you.

Senator DECONCINI. Thank you, Mr. Graham.

Mr. COLVIN. My name is Jon Colvin. I am the president of the governing board of the Chinle Public School District in the Navajo Nation, and one of the points I would like to make is that, as it is shown on this particular chart, our district and many of the other districts represented here today are totally within reservation boundaries. We do not even have the luxury of having some off-reservation areas that are thus taxable and can go to support the type of funding cuts the administration is proposing.

In addition to that, we are the largest district geographically in the continental United States. Thirty percent of our maintenance and operation budget is from 874 funds, and currently, just as Mr. Graham has said, we are not able to meet the needs of our students either by providing an adequate level of services with the money available to us.

The second chart which I have here, which is also included in our testimony, indicates what would happen if we had to make up the difference in 874 funds. Basically, we right now have a tax rate of a little bit higher than $10 per $100 assessed valuation. With only a 20-percent cut, we would have to raise that by 50 percent, to about $16.59. With a full cut, we would have to raise it to the rather ridiculous proportions—but not as ridiculous as other districts have mentioned—of about $40.80-some. This would be something that the taxpayers would not be able to afford, and they would certainly rebel against it.

It was mentioned earlier that we had had a problem in the mid-seventies. We did. We had a financial crisis at that point. We had needed to get an assessed millage rate of $30 per $100 assessed valuation. Our primary taxpayers are the utilities that run through the Navajo Nation. They rebeled at that point. They said there is no way we would set that sort of a precedent for that tax rate.

They did give us, in essence, a grant of money to replace what they would have paid in taxes just so they would not set that precedent. Our district almost closed at that time.

Our feeling now is that if we had as much as a 50-percent reduction in 874 from last year's level, that that would then force us to close our district.

Senator DECONCINI. Thank you.

[The material submitted by Mr. Colvin follows. Testimony resumes on p. 144.]

MEMORANDUM

TO : THE UNITED STATES SENATE AND THE HOUSE OF REPRESENTATIVES

FROM: GUY GORMAN, SR., PRESIDENT
Chinle Agency Council of Chapters

I write on behalf of the Navajo children attending or will attend the Chinle Public Schools. The Agency Council and local chapters in the Chinle School District have received many complaints from parents and students about the lack of adequate facilities at the Chinle High School and the non-existence of a permanent facilities for the primary children grade (K-3). The present high school was built in 1963 to house 350 students the enrollment has since then triple. Consequently, 600 or more students are located in temporary structures that are rotten and rapidly becoming a health and safety hazard. Some of these trailers are more than ten years old.

An immediate need exist for new building and remodeling to meet minimal standard of educational facilities. Any more delays or cuts in funds mean loss of opportunity for many students to obtain an education. The school administrators report, that they are reaching only 8,000 of the 13,000 potential students. Many of these students do not attend because of lack of school facilities within less than 50 miles. Again, many students who are turned off by the substandard facilities or absence of facilities lose an opportunity to obtain an education and meaningful employment and a good life. They will have but little choice then to take their place among the welfare and unemployment lines.

I believe the United States Government still has an obligation to the Native Americans in this country, even though budget may be cut and department shifted the responsibility remains. This responsibilities must not be ignored when you consider P.L. 815 and 874.

On behalf of the many children attending and will attend the Chinle Public Schools I pleadwith you that funds for school operation and construction continues.

Thank you very much for reading my testimony.

Guy Gorman Sr.

Guy Gorman, Sr. President
CHINLE AGENCY COUNCIL OF CHAPTERS

RESOLUTION OF THE CHINLE CHAPTER OF THE NAVAJO NATION

THIS IS A REQUEST TO THE UNITED STATES SENATE AND THE HOUSE OF REPRESENTATIVES TO SUPPORT A RESOLUTION FOR THE CONSTRUCTION OF A NEW HIGH SCHOOL AND A NEW PRIMARY SCHOOL FOR THE CHINLE COMMUNITY

WHEREAS:

1. We, the Navajo people, acknowledge the 1868 Treaty between the United States of America and the Navajo Tribe of Indians in which an agreement was entered. In article VI of that Treaty it reads, "The United States agrees that, for every thirty children between said ages who can be induced or compelled to attend school, a house shall be provided, and a teacher competent to teach the elementary branches of English education shall be furnished, who will reside among said Indians, and faithfully discharge his or her duties as a teacher."

2. There are 13,000 potential Navajo students in the Chinle School District, but only 8,000 are presently served by the public school, B.I.A. schools, contract schools and private schools. Approximately 5,000 students are not served by any of these agencies.

3. The Chinle High School constructed in 1963 was designed to serve 350 students, but now serve over a thousand students. The majority of the students are housed in "substandard" temporary buildings. Some of these trailers are over ten years old.

4. Research indicates a relationship exist between environmental climate, pride and achievement, the deteriorating and overcrowded facilities by far fails to provide this climate. 146 students have dropped out of school and 48 have withdrawn in this fiscal school year.

5. Under the new administration B.I.A. may have to close some of their schools which would affect further the enrollment of the Chinle High School. There are two B.I.A. high schools in the school district.

6. The Chinle Primary School K-3 with 615 students is located in a B.I.A. facility that has been declared "unsafe and uninhabitable." Because of the lack of facilities to house Primary students the B.I.A. structure have remained open in spite of warnings. The B.I.A. have notified the Superintendent that the facilities may have to be closed in 1983-84 school year.

7. Housing for teachers are unavailable. The majority of the teachers are now housed in trailers that are becoming old and uninhabitable.

8. The rapid economy growth in Chinle such as: the completion of a large Shopping Mall in 1981; the construction of a new comprehensive health facility containing 60 beds and serving in-patients and out-patients; and the construction of 275 public rental housings that are scheduled for completion by 1984. These developments will bring many non-local people to Chinle placing more stress upon the already overcrowded schools. The school is expecting over 1,000 students in all grade levels by 1984.

9. We are extending an open invitation to the Senate and the House of Representatives to come and see the conditions of our schools.

NOW THEREFORE BE IT RESOLVED THAT:

1. Request of the Senate and the House to come to our aide immediately with funds to construct a new high school.

2. Request of the Senate and the House to come to our aide immediately with funds to construct a new primary school.

3. Request of the Senate and the House to come to our aide immediately with funds to repair existing buildings.

4. Request of the Senate and the House to come to our aide immediately with funds to fully fund PL 81-874 to insure operational funds for Chinle Schools.

5. Request of the Senate and the House to come to our aide immediately with funds to retain the Department of Education and not to transfer funds and administration of funds to other departments.

CERTIFICATION

We, hereby certify that the foregoing resolution was duly considered by the Chinle Chapter at a duly called meeting at Chinle, Navajo Nation, (Arizona), at which a quorum was present and that same was passed by a vote of 84 in favor and 0 opposed this 28th day of February, 1982.

Kee Chee Jake
CHAPTER PRESIDENT

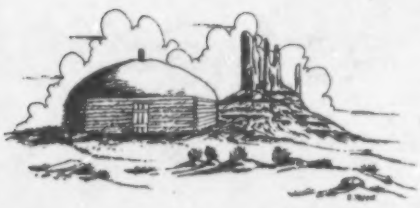
Theodore Evans
CHAPTER VICE-PRESIDENT

James C. Yazzie
CHAPTER SECRETARY/TREASURER

CONCURRENCES:

Guy Gorman, Sr., COUNCIL DELEGATE

William D. Tsosie, Sr., COUNCIL DELEGATE



NORTH CENTRAL ACCREDITED
CHINLE PUBLIC SCHOOLS
P.O. Box 587
Chinle, Arizona 86503

(602) 674/3481

Russell W. Harrach
Superintendent

Walt Zahrt
Assistant Superintendent
Support Services

Bobby L. Folsom
Assistant Superintendent
Education

WRITTEN TESTIMONY
of
GOVERNING BOARD
CHINLE PUBLIC SCHOOLS
JON D. COLVIN, PRESIDENT
ROSELYN A. YAZZIE, CLERK
WALT ZAHRT, SUPERINTENDENT
CHINLE, NAVAJO NATION, ARIZONA
for
Senate Select Committee for Indian Affairs
March 8, 1982

The Chinle Public Schools would like to thank you for your interest in the education of Navajo Students and for the opportunity to present this testimony. The Governing Board and administration of the Chinle Public Schools stands ready to provide any information necessary to support our request for continued funding under Public Law 81-815 and Public Law 81-874.

INTRODUCTION

The Chinle Public School District lies wholly within the boundaries of the Navajo Reservation in Northeastern Arizona. The school district contains 7,200 square miles of mountains, mesas, plains and desert making it the largest geographical school district in the continental United States. Our district also has the largest Indian student population in Arizona and the second largest in the continental United States.

As a point of size comparison, the following information is presented for your understanding:

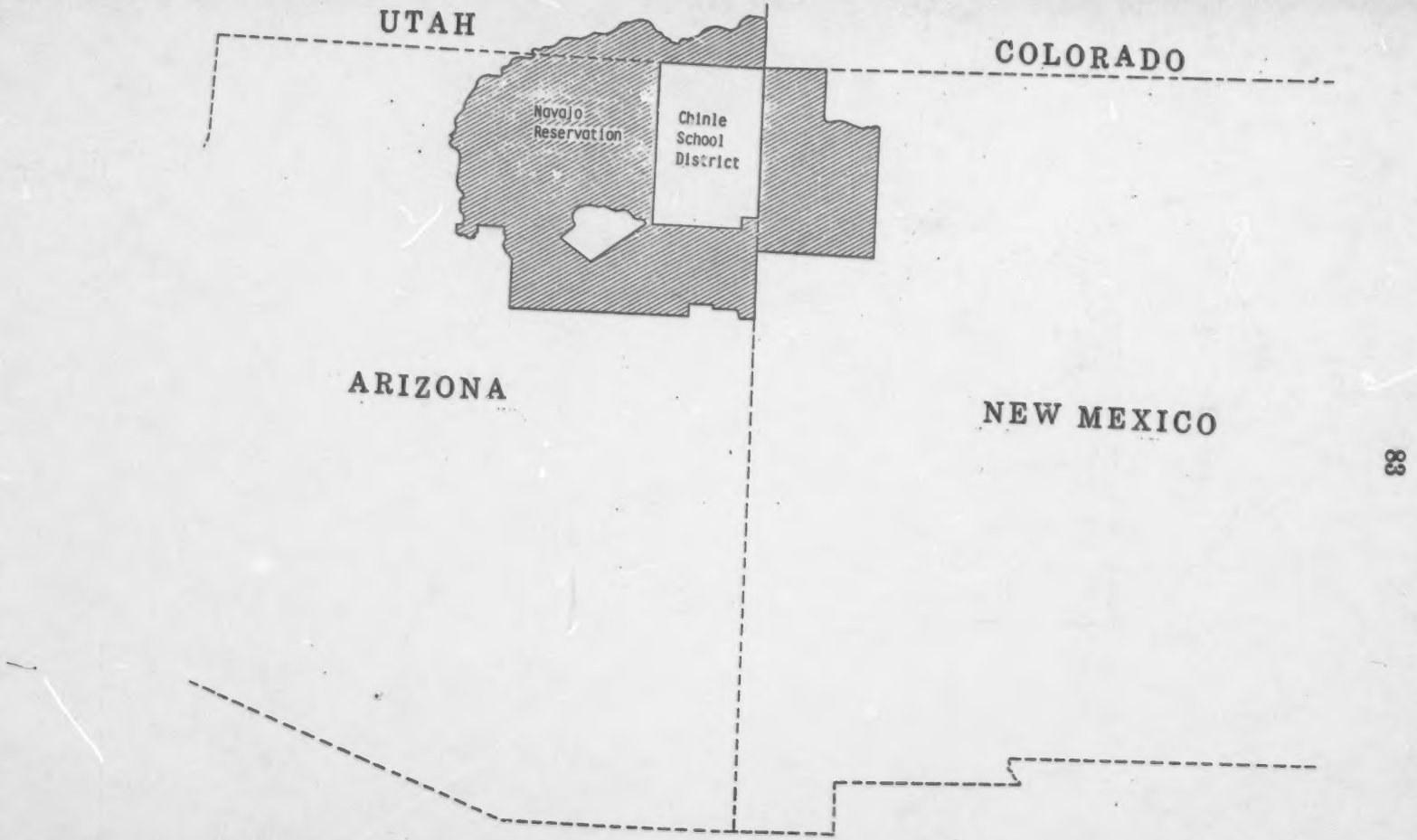
Vermont	9,609 square miles
New Hampshire	9,304 square miles
Massachusetts	8,257 square miles
New Jersey	7,836 square miles
CHINLE SCHOOL DISTRICT	7,200 square miles
Connecticut	5,009 square miles
Delaware	2,057 square miles
Rhode Island	1,214 square miles

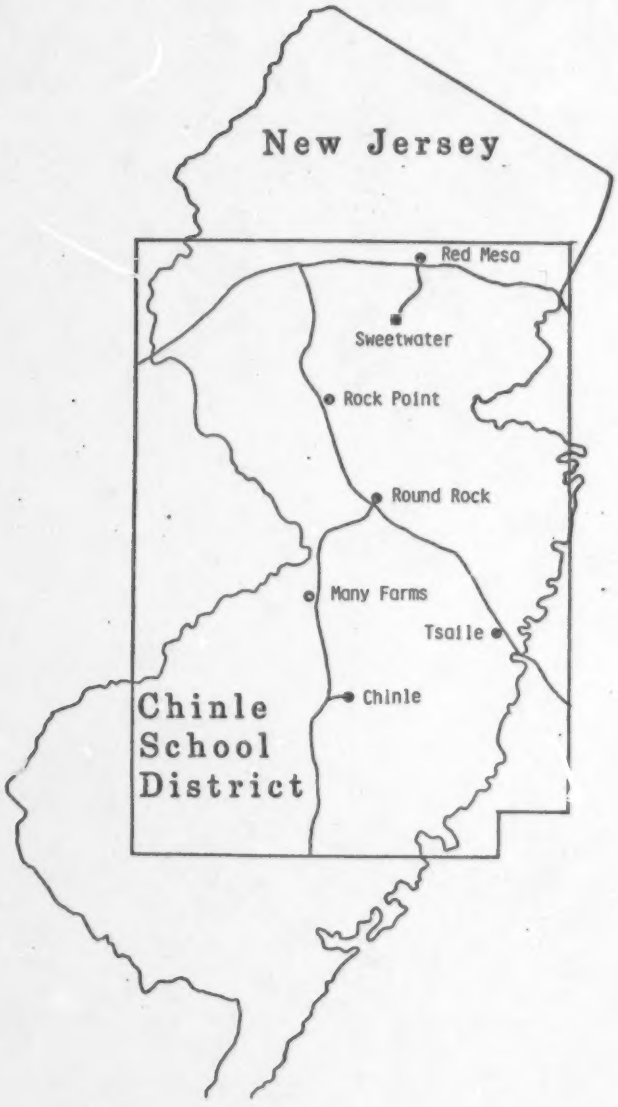
The people who live, work and go to school in the district drive on only 170 miles of paved roads. About the same number of miles of improved dirt roads exist with the majority of the roads being unimproved dirt. Many miles of bus routes are run on trails across the desert which do not even appear on B.I.A. maps in the area. Roads of this type and the distances traveled increase our transportation costs by 50% or more over urban costs, yet we do not receive extra funds due to these costs.

The current total population within the boundaries of the school district is approaching 40,000 people according to the 1980 census. With the average age on the reservation being under eighteen years, we should have nearly 13,000 students enrolled in our schools. Our current enrollment is only about 4,300 however, which indicates we are losing two-thirds of our students to non-attendance, B.I.A. schools, contract schools, and private schools.

Our concern does not lie with the fact that students are being educated by schools of a different type but with the fact that between us that we have a combined enrollment of a little under 8,000 students. 8,000 is only 61% of our projection of 13,000 potential students which means we have 39% of our students, approximately 5,000, who are not being served by any educational agency at the present time. This is tragic fact which I think underlines more clearly than anything else that could be presented of our need for new facilities and improved facilities which will made education more available to the potential student population of our portion of the Navajo reservation. It should abundantly be clear at this point that the needs of the student population residing within the Chinle Public School District boundaries are not currently being met by the public schools, the B.I.A. schools, the contract and private schools, and that additional efforts need to be made to bring nearly 40% of the student population back into the educational process. As shown in a table which follows, the Chinle Public Schools currently needs approximately 38 million dollars to replace or update existing facilities. Should the educational agencies existing within the boundaries of the Chinle School District be successful in bringing students back into the systems it would be necessary for us to find funding for the construction of the facilities to house nearly 5,000 additional students.

The causes of this high loss ratio are many, but the lack of adequate facilities, minimal programs, transportation problems and difficulty in keeping strong teachers because of poor housing need to be stated. Our current drop-out statistics indicate that we graduate only one student of every three leaving junior high school.


UTAH
COLORADO
Navajo Reservation
Chinle School District
ARIZONA
NEW MEXICO


New Jersey
Red Mesa
Sweetwater
Rock Point
Round Rock
Many Farms
Tsaile
Chinle
Chinle
School
District

PUBLIC LAW 81-815

The Chinle Public School District would like to go on record as officially opposing the dissolution of the Department of Education and the transfer of oversight responsibilities of Public Law 81-815 to the Bureau of Indian Affairs in the Department of Interior. On the Navajo reservation we have four basic types of schools currently in existence. The public schools which are located wholly within the boundaries of the Navajo reservation, the Bureau of Indian Affairs schools operated as either day schools or dormitory schools, and the contract schools which are run by local Boards of Education through funds granted from the federal government through the Bureau of Indian Affairs. The fourth type of schools are those run by private organizations such as religion denominations. Within the boundaries of the Chinle School District the public school system operates ten separate attendance centers. There are six Bureau of Indian Affairs operated schools, three contract schools, and three denominational schools. Current enrollment data shows 4,300 students enrolled in the public schools system, enrollment authorization of the B.I.A. schools of 2,620 with current enrollment of 2,548, and there are 898 enrolled in contract schools. There are approximately 160 students enrolled in the denominational schools. Each of these different types of schools does have a role to play in the education of the reservation youth within the boundaries of our school district. The Chinle Public School District does not object to the existence of the other schools, in fact we feel that the other schools' existence is absolutely necessary. We are concerned that the B.I.A., which is currently involved in the education of about 3,500 students within our district boundaries, might control our ability to provide physical facilities to meet the needs of our public school students. While our working relationship with local officials in the various schools that do exist within our school district boundaries has been positive, our concern lies with the fact that the people who would likely be responsible for the distribution of funds would be housed in an office in Washington and would not have the first-hand experience that those here on the local scene do have.

Under the budget proposals of the Reagan administration, all of our discussion of who should or should not control the funds for construction of school facilities under Public Law 81-815 is really unnecessary. The president's budget proposals calls for the allocation of 3 million dollars in funds to be used for emergency repairs across the entire nation. In light of the fact that the total 81-815 funds necessary for the Chinle, Ganado, and Window Rock schools, which serve the northeastern portion of the Arizona section of the reservation, now stands at a total of approximately 90 million dollars, the 3 million dollars in question seems rather insignificant. The Chinle Public School District would like to be on record as favoring increased funding in the area of Public Law 81-815 or at least funding continued at current levels of 20 million dollars per year as is authorized by Congress.

The Chinle School District and other reservation public schools have critical needs for funding under this act. We have basically three ways to finance construction of school buildings for the district:

a. Local bonding
b. State aid for capital construction
c. Federal grants (P.L. 81-815)

Local bonding depends upon our assessed valuation which amounts to only $10,000,000. In Arizona a school district may go into debt equal to fifteen per cent of its assessed valuation, or $1,500,000 in the case of the Chinle School District.

Presently the district voters have authorized indebtedness in the amount of $1,300,000, but we are facing real problems selling bonds due to the fact that we are on the reservation and we are limited by the voter to paying no more than 12% interest on the bonds. In addition, investors feel that reservation schools are a poor risk since the funding of the schools is tenuous at best. As will be demonstrated later, the construction needs of the Chinle School District stand at $38,000,000 and will rise with inflation in the future years.

State aid for capital construction has been completely ignored by the Arizona Legislature under the new finance act. This means an extremely poor district such as Chinle must rely solely on local resources, which have been shown to be virtually non-existent; or, upon the federal government.

Federal grants under Public Law 81-185 funded our recently completed Tsaile Elementary School in the amount of $7,000,000. While this grant has met one need, many needs still exist. The following table indicates the status of our other facilities:

Facility	Date Constructed	Capacity	Enrollment
Chinle High School	1963	350	901
Chinle Junior High	1968	300	552
Chinle Elementary	1958	300	509
Chinle Primary	Facility leased from B.I.A. The next school year will be the last year we can lease the facility as it is scheduled for razing.		
Tsaile Elementary	1980	430	385
Many Farms Elementary	1965	300	461
Round Rock Elementary	1958	150	120
Red Mesa Elementary	1965	250	397
Red Mesa High	1975	350	369

The overflow of students shown in this table have been accommodated by the installation of "temporary" facilities which have become a permanent solution to the problem. During the early 1970's the Chinle School District faced bankruptcy and still suffers the consequences of that period. Maintenance needs of the district were necessarily ignored and we now face mandatory expenditures of major proportions to make presently substandard facilities safe for students and attractive enough to be conducive to learning. Many of the "temporary" buildings need outright replacement. Some of the permanent buildings need repair to roofs, foundations, walls and floors due to settling problems.

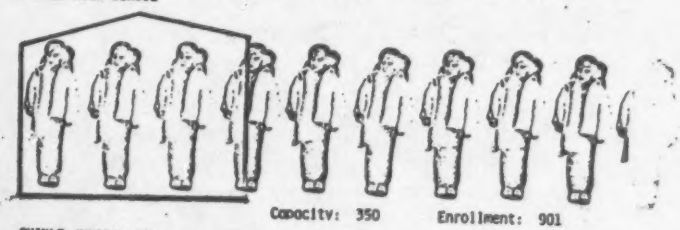
Another great need of the district is to provide adequate housing for our staff. There is no private housing available on the reservation, thus the district must provide living space. Nearly all of the district housing is in the form of trailers which have suffered the same forced lack of maintenance as mentioned earlier. Approximately 60% of the trailers are critically sub-standard and need to be replaced. The need for adequate housing has a direct relationship to our ability to recruit teachers, and thus upon the quality of instruction for students.

Putting all of our needs together, we provide the following detail:

Chinle High School (complete)	$ 21,000,000.00
Chinle Junior High School (addition)	2,000,000.00
Chinle Elementary (addition and renovation)	2,500,000.00
Chinle Primary (remodeling present High School and addition)	3,500,000.00
Many Farms (renovation and addition)	2,000,000.00
Round Rock (renovation and addition)	1,500,000.00
Red Mesa Elementary (addition)	2,000,000.00
Red Mesa High School (addition)	1,500,000.00
Teacherages (replacement)	2,000,000.00
	$ 38,000,000.00

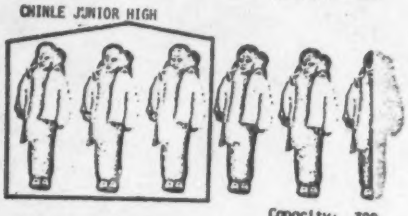
OVERCROWDED FACILITIES
Chinle Public Schools

CHINLE HIGH SCHOOL



Capacity: 350 Enrollment: 901

CHINLE JUNIOR HIGH

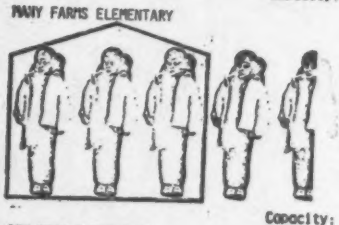


Capacity: 300 Enrollment: 552

CHINLE ELEMENTARY

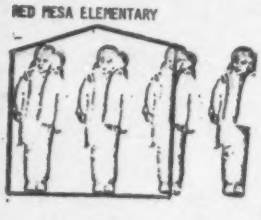
Capacity: 300 Enrollment: 509

NAVY FARMS ELEMENTARY



Capacity: 300 Enrollment: 461

RED MESA ELEMENTARY



Capacity: 250 Enrollment: 397

TO: Mr. Walt Zahrt FR: Mr. Steve Alman

RE: ENROLLMENT OF BIA AND CONTRACT SCHOOLS

VIA: TELEPHONE CONVERSATION

Report as of January 22nd, 1982:

Boarding	1,854
Day Students Boarding Sch	259
Kindergarten	200
In-Day school	235
	2,548 = Total

(Authorized to have 2,620 enrolled, presently 72 students less than figured authorized)

Black Mesa School	48
Rock Point	440
Rough Rock	410
	898 = Total

Private Schools.....150

PUBLIC LAW 81-874

Historically P.L. 81-874 monies have been granted to school districts with federal activity and to districts with a high concentration of Indian students in lieu of sufficient tax base to provide a reasonable level of education. Districts receiving these monies were permitted to spend them above and beyond the existing state school finance act in all states in the nation.

The Arizona State Board of Education has said that P.L. 81-874 funds may not be used beyond the existing finance act. Thsu, regardless of the amount of money available, each district is limited to a specific spending authority. This has caused Chinle and other reservation school districts to carry forward unspendable funds which were critically needed to meet existing problems of maintenance and program development.

In the fiscal year 1981-82 the Arizona Legislature attempted to deduct a dollar amount of state aid equal to 20% of the 1980-81 P.L. 81-874 revenues plus 40% of the estimated 1981-82 P.L. 81-874 revenues. This attempt was challenged by Chinle and other districts through the Arizona Indian Education Project with the result that the federal government denied the withholding of the 20% of the 1980-81 revenues because the Arizona finance act was considered inequitable. At this time there has been no decision made concerning the same request by the state regarding 1981-82 P.L. 81-874 revenues.

It would be in the best interests of students in the Chinle School District and the reservation district if the P.L. 81-874 regulations allowed the full use of the P.L. 81-874 funds by local districts without the threat of loss of state aid. These funds were designed to meet the expense of running districts on federal lands, and such deductions seem contrary to the intent of the act.

If the Reagan administration follows its proposals for phasing out P.L. 81-874 funds over the next three years, it will be necessary for the Chinle School District to close for the following reasons. For fiscal year 1981-82 the district budgeted $3,400,000 in P.L. 81-874 revenues, 30% of our total budget. If this were phased out, and with the assessed valuation of $10,000,000 the mill levy would have to increase by 340 mills or 34% of property value to accommodate this loss. A tax levy of this rate cannot, of course, be accepted by the taxpayers. All indications point to the fact that the state of Arizona would not be in a position to make up the difference in funding.

Related to this problem is the fact that the Arizona Finance Act provides for about $100 increase per average daily membership. This would generate approximately $350,000 new dollars which amounts to about a 3% increase. This is not even sufficient to meet the normal salary increment for our employees.

The Chinle School District needs continued funding for the operation of the school district. Reductions of funds or the loss of funding will have dire effects on the quality of operation and could force the closing of the schools.

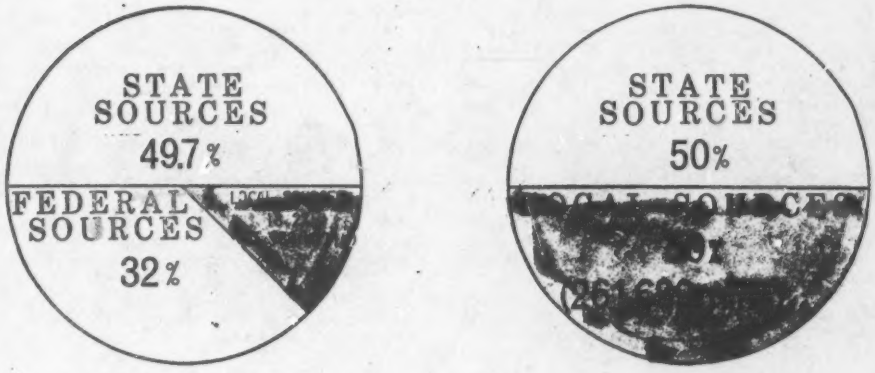
It is imperative that the regulations governing the use of the funds be structured to insure the full use of the funds.

The Chinle Public School District asks that funds under P.L. 81-815 and P.L. 81-874 not be reduced as the existence of the district and the education, safety and well-being of our students are in the balance. Further, we ask that these funds not be transferred from the Department of Education.

The Chinle Public School District stands ready to provide further information as requested.

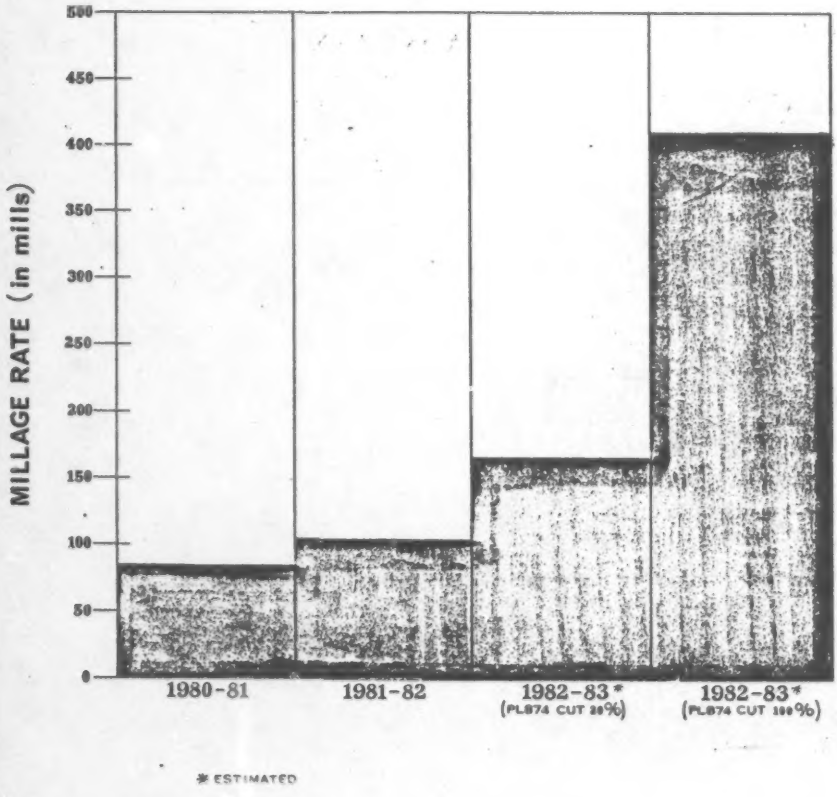
SOURCES OF REVENUE AND EFFECTS ON RATE OF TAXATION IF FEDERAL FUNDING IS WITHDRAWN

1981-82 CHINLE ELEMENTARY SCHOOL DISTRICT ESTIMATED REVENUES - M & O BUDGET 1982-83



1981-82 CHINLE HIGH SCHOOL DISTRICT ESTIMATED REVENUES - M & O BUDGET 1982-83

EFFECTS ON RATE OF TAXATION FOR LOCAL SOURCES IF FEDERAL FUNDING IS WITHDRAWN



* ESTIMATED

MILLAGE RATE COMPARISON
1980 - 81 and 1981 - 82
1982 - 83 projected (if PL 874 is cut by 20 per cent)
1982 - 83 projected (if PL 874 is cut entirely)

	ACTUAL 1980-81	ACTUAL 1981-82	ESTIMATED 1982-83 (PL874 cut 20%)	ESTIMATED 1982-83 (PL874 cut to 0)
DIST. 24 M&O	- 0 -	$ 6.3989 (63.989 mills)	$ 10,3489 (103.489 mills)	$ 26.1689 (261.689 mills)
DIST. 25 M&O	$ 8.4207 (84.207 mills)	$ 4.1345 (41.345 mills)	$ 6.2445 (62.445 mills)	$ 14.7245 (147.245 mills)
TOTAL	$ 8.4207 (84.207 mills)	$10.5334 (105.334 mills)	$ 16.5934 (165.934 mills)	$ 40.8934 (408.934 mills)
ASSESSED VALUATION OF DISTRICT	$8,764,165	$11,052,004.	$ 12,000,000.	$ 12,000,000.

Millage rates and mill levies would be even higher in 1982-83 if the State of Arizona were successful in reducing State aid in lieu of PL 874 (20% the first year; 40 per cent the second year; 60 per cent the third year, etc.)

OTHER FEDERAL FUNDING

The following information is presented to demonstrate the full effect of the Regan proposals upon our district. We are facing nearly $600,000 reduction in P.L. 81.874 funds due to a 20% reduction. The State of Arizona may take 20% of the remainding $480,000. Add these two figures with the figures below and we have a total drop in funds of $1,622,000.

Last year, the Governing Board of the Chinle Schools cut approximately $350,000 from the budget to meet fund reductions. The Board is considering $750,000 in further cuts which would have serious impact on programs. These cuts are forced upon the district while we know we have many needs which we can not meet.

FUNDING LEVELS: TITLE I, TITLE IV, & TITLE VII

	Current 81-82	Projected Cuts	Estimated 82-83
TITLE I			
Basic Grant	$935,506.	-233,876. (25%)	$701,630.
Concentration Grant	44,736.	- 44,736.(100%)	-0-
	$980,242.	-278,612. (28.4%)	$701,630.
TITLE IV	$669,085.	-219,808. (33%)	$448,278.
TITLE VII	$145,793.	- 43,738. (30%)	$102,055.
	$1,795,120.	-542,158. (30.2%)	1,251,972.

APPENDIX A

THE CHINLE SCHOOL DISTRICT REQUESTS assistance for the construction of a new high school facility to house 2,000 Navajo Indian students. The need for this request is based upon two major criteria, population growth, and the inadequacy of the existing facilities of the Chinle High School complex.

POPULATION GROWTH FACTOR

Navajo Population Growth: The 1981 population estimate according to the Navajo Tribal Information Service is 152,694. The Navajo Tribal Information Service informs us that the Tribe's yearly population growth increase is calculated at 2% of the total population. Using this figure, the Tribe increases at a rate of approximately 3,053 persons per year.

Moverover, the 1979 tribal population statistics (Information Service Department of the Navajo Tribe) records 145,917 Navajo with the median age of males at 16.8 and females at 17.8 years. The birth rate in 1975 was estimated at 28.6 per thousand people (Indian Public Health Service). The U.S. rate at that time was 21.2 per thousand. The Navajo people are experiencing a population explosion.

The Chinle High School serves a general population of 18,024. With the 2% projected increase per year, we can anticipate an enrollment of 360 (plus) kindergarten children yearly. (See 1979 population breakdown, Appendix A).

COMMUNITY AND ECONOMIC DEVELOPMENT FACTORS

The 1980's marked the beginning of a major development in the town of Chinle. A large shopping mall, the first of its kind in the area, was completed and opened in 1981. Following this, a sixty-unit in-patient hospital foundation was poured. To house the anticipated hospital employees, 495 residential housing units were started for completion by 1984.

According to the Chinle Hospital Steering Committee and Dr. Gregory Alexander, the 60 in-patient bed hospital is scheduled for completion in June of 1982 and will be open for out-patient services in the Fall of 1982. The outfitting and operation of the new hospital will require a staff of 381 people. Eighty-five (85) of these positions will be filled from the current funded staff positions of the Indian Health Services Clinic located in Chinle. However, 296 additional positions must be provided to staff the expanded out-patient and new in-patient services. The unavailability of housing prompted the Health Steering Committee to seek funds to ensure housing for the employees. Negotiations are now being conducted between Congress and the Indian Health Service for the construction of 200 hospital staff housing units needed to ensure full operation of the hospital.

The following supportive information was gathered from an August 30, 1979, memorandum by Mr. Thomas G. Gallegos, P.E. Chief Facilities Management Navajo Area Indian Health Service to the Chinle Service Unit Director. A review of the staff distribution (observed at Tuba City, Shiprock, and Ft. Defiance, revealed the following percentage of employees who are single, married with children, and those who are married and without children).

	Total Employees	Single	With Children	Without Children
Tuba City	339	.25	.67	.08
Shiprock	197	.28	.70	.02
Ft. Defiance	216	.18	.80	.02

"The survey reveals statistically at these facilities that on the average, 72% of the employees are married and with children and 24% of the employees are single, and a small percentage, 4%, are usually married without children." (See memorandum, Appendix B).

Using this data, we can project the number of students that will come into the school district by 1984. In Advance Report, 1980 Census Population, September 1981, we find that Shiprock statistics on per-

sons per household is 4.60. Of the 296 non-local people that will be employed by the P.H.S., 72% will be married and with children or 206 will be married and have children. (See Table I for High School Student Population Projection).

LOW RENT HOUSING

The third major impact will also come from the construction of 275 low rent housing units scheduled to be completed by 1984. This is in addition to the 220 units scheduled for the hospital. The development is funded through H.U.D. The following statistics are obtained from the Navajo Housing Authority, Chinle; the 110 low rent housing available in Chinle are occupied by families with an average household of 6.0. Using this data, we can project that 275 families with six (6) family members will be moving into this area. Again, according to figure (I) High School Student Projection, we can expect an increase of 150 (plus) high school students by 1984. (See Table I for High School Student Population Projection).

ENVIRONMENTAL FACTORS IN LEARNING

"To serve its function well to meet the educational expectancies of its students and the community, to be truly great, the school building must be more than a container for the education program... that the school building should be not only a functional servant of the educational program, but also a friendly, attractive, and stimulating place - importing a feeling of security and a sense of pride to all whom it serves," declared the Commission on Buildings of the American Association of School Administrators.

Research records the following as necessary for an ideal climate for learning. Luxury is not required, but comfort is. Excellent illimination without glare, absent of disturbing sound or movements provide an ideal setting in which the chances for effective learning are increased. Thus, we can say, that the atmosphere is the determinant of aspiration or the damper of spirit and imagination. Then there are those who associate simplicity and physical hardship as necessary

for quality learning. "But it is not quite clear that learning is not aided by mortifying the flesh." J.R. Kidd

The facilities provided by the Chinle High School in view of the above criteria seriously fails to meet the basic standards for excellence in education. The Chinle High School plant has been so neglected over these past years in spite of the early warnings of facilities evaluation by experts that the facility is now in a state of educational shock. For instance, the 1975 Plant Facilities Survey for Chinle Public School records: "The only two buildings (referring to the Chinle High School) on the campus that rated as "adequate" were the original buildings and the steel building with six classrooms located on the west side of the original plant. The other nine buildings (trailers) on the campus are "inadequate." According to the McLeary Profile Chart for rating school buildings, the results ranged from "inadequate" to "borderline." (See Appendix C).

This evaluation was made seven years ago, but improvement or expansion was never attempted. Thus, the structures now pose a serious threat to the health and safety of a thousand or more high school students. The original building was designed to house 350 students which now accommodates 1,154. The overcrowding, cramped classrooms and the deteriorating facilities make a mockery of educational planning and services.

If atmosphere is the determinant of aspiration or the dampening of spirit and imagination, it so is examplified in the Chinle Schools. The Chinle High School records 1,117 enrollment with a membership of 932, February 5, 1982 which reports a difference of 194. The breakdown of this attrition is 146 dropped out and 48 withdrawn.

Further, the average grade equivalent on the California Achievement Test (C.A.T.) of students who graduated from Chinle High School in 1980-81 were: Reading - 8.8; Grammar - 8.5; and Math - 9.0, or 22% 22%, and 29% on National Percentile Rank.

OTHER MAJOR FACTOR

Chinle Primary Facilities: The Chinle Primary School (K-3) with 615 students is housed in an old B.I.A. facility. In 1979, Sterns-Roger Architects, Ltds., Facilities Evaluation, reported: "Due to defects which render it (structure) unsafe and uninhabitable, demolition is recommended." Because of the absence of facilities to house the primary students, the district has, thus far, kept the facility opened. (See Appendix D, Sterns-Roger Evaluation).

In a December 18, 1981, memorandum Mr. Benson D. Begody, Acting B.I.A. Superintendent reluctantly approved the Chinle School's request to open the facilities for the 1982-83 school year. Due to structural defects, the future of the facilities is questionable for the 1982-83 school year.

When the new high school is built, the primary school may move into the old high school until a new structure can be built for them. Without the construction of the new high school, the primary school will be unhoused within a few short years. (See Appendix E, Memo from Mr. Benson D. Begody, Acting B.I.A. Superintendent).

TABLE I

HIGH SCHOOL ENROLLMENT
INCREASE PROJECTION

INDIAN HEALTH SERVICE

HOUSING	AVERAGE # IN HOUSEHOLD	SCHOOL AGE IN FAMILY	H.S. AGE 1/3 OF SCHOOL AGE
220 units	4.60	440	136

LOW RENT

HOUSING	AVERAGE # IN HOUSEHOLD	SCHOOL AGE IN FAMILY	H.S. AGE 1/3 OF SCHOOL AGE
275 units	6.0	450	150

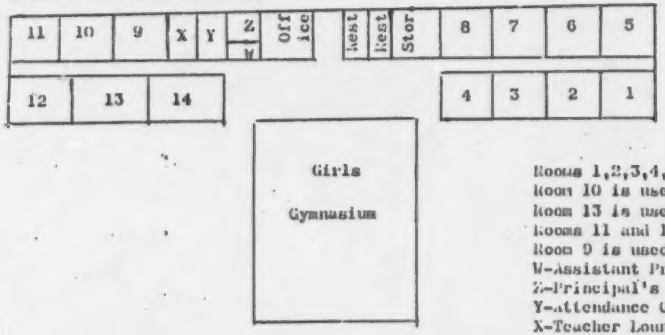
TOTAL: 286

* Using the figure above, we can project an increase of 286 above the A.D.A. of 1154 in the next two years.

(B) DESCRIPTION OF CHINLE PUBLIC SCHOOL FACILITIES

CHINLE HIGH SCHOOL COMPLEX

HIGH SCHOOL, MAIN BUILDING



Rooms 1,2,3,4,5,6,7,8, and 14 are used for English and Reading.
Room 10 is used for teaching the Navajo Language.
Room 13 is used for Home Economics.
Rooms 11 and 12 are used for Sciences.
Room 9 is used to teach Health.
W-Assistant Principal's Office
Z-Principal's Office
Y-Attendance Office
X-Teacher Lounge

The general classrooms are equipped to handle about twenty-five pupils maximum. They are totally inadequate. The science rooms are poorly equipped as is the home economics laboratory. The principal's offices are extremely small and inadequate for dealing with over a thousand children.

The building is in general disrepair. It is basically made of concrete blocks, including all partitions. There are no dressing room or shower room facilities for the gymnasium. Included in the gymnasium is a small stage which is inadequate for making productions. There is no seating in the gym.

The halls are extremely narrow and hazardous. Safety for pupils and personnel alike would be at a premium. The floors of the building are concrete, covered with vinyl asbestos tile. The roof of the structure leaks in numerous places and is difficult to keep in even a basic state of repair. It leaks every time any precipitation occurs.

The restrooms are totally inadequate for the number of pupils generally housed in the building. Lighting is poor to very poor in all of the rooms. Heating is adequate to less than adequate. Insulation is practically non-existent. There is no light at all on the sidewalks, the parking area, or the entrances to the building. Night functions are extremely difficult, if not impossible, to hold.

CHINLE HIGH SCHOOL COMPLEX

ROGAN BUILDING

(Silversmithing)

Descriptions:

1. The Rogan Building is structured out of wood with a concrete floor. It is a typical Rogan-type structure. Each classroom holds about 20 pupils as a maximum. The utilities used for instruction are unsafely stored and consumed. It is a poor laboratory area.

2. Building number five is a hastily built metal building with wooden frames inside. The floors are all plywood covered with a tough carpet. There is little or no insulation. Each classroom easily holds 30 pupils. The roof is also metal. The science laboratories are very poorly equipped. The restrooms are adequate.

3. The Nursing-Languages Building is a wooden frame dwelling that is very over-crowded and lacks proper exiting for safety. The pattern of the structure is that of a military barracks. Insulation is poor. Floors are wood with carpet.

4. The Guidance-Counseling building houses four offices and other rooms. Its basic structure is similar to that of the Nursing-Languages Building. It, too, is inadequate.

BUILDING NUMBER FIVE

61 Social Stud.	62 Social Stud.
59 Social Stud.	60 Social Stud.
57 Social Stud.	58 Social Stud.
55 Math	56 Math
53 Math	54 Math
51 Math	52 Biology
49 Physical Sci.	50 Life Sci.
Restroom	Restroom

N

(Nursing)

64 B

64 A

(Languages)

Guidance Counseling

(THIS IS THE STREET IN FRONT OF THE MAIN HIGH SCHOOL BUILDING)

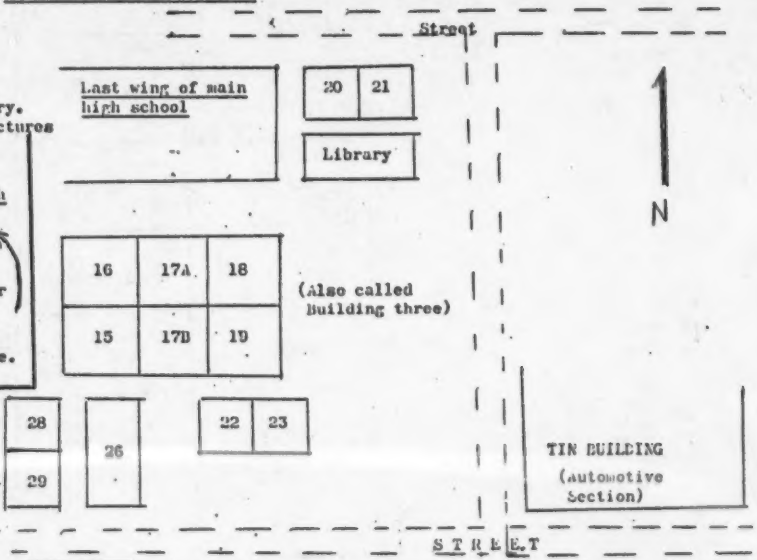
MAIN HIGH SCHOOL BUILDING

20 | 21

KIFF 2-15-72

TIN BUILDING

CHINLE HIGH SCHOOL COMPLEX



MISCELLANEOUS BUILDINGS

Rooms 20, 21 are storage for the Library. All three buildings are temporary structures and totally inadequate.

Rooms 18,19 are used for music. The building is metal over-all with a concrete floor. No practice rooms.

Room 17A, 17B, houses the cosmetology program. It is barely adequate. Water utilities are woefully lacking.

Rooms 15, 16 are used for the art program. There is little or no storage.

Rooms 28,29, wooden barracks-type structure, used for special education.

Room 26 is used for heavy equipt. and diversified CESO. Wooden frame, barracks-type structure.

Rooms 22,23, wooden barracks, not now being used.

Rooms 27, 32, 33, 34, are used for agriculture. Room 32 is the shop. Not any part of this building meets the barest minimum standards for vocational agriculture. While animal husbandry is taught in room 34, the laboratory facility is nearly a mile away. Room 32 is the shop area. It has enough room for working on one small tractor. Welding stations are lacking in safety.

Horticulture Laboratory is located 150 yards north of the tin building.

Kipp 3-15-82

CHINLE HIGH SCHOOL COMPLEX

THE TIN BUILDING AND HORTICULTURE BUILDING

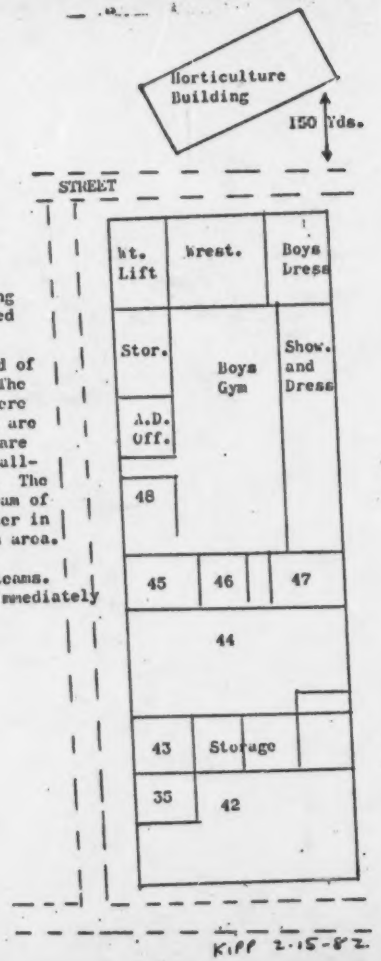
The tin building is also called building number four.

Rooms 42 and 35 are associated with the automotive program.
Rooms 43, 45, and 48 are associated with the JROTC program.
Room 44 is the main industrial arts woodworking area.
Room 46 is used for teaching drafting.
All of the other rooms are involved in the boys physical education program.

1. The horticulture building is made of translucent material for the growing of plants. While the building is adequate, it is located several hundred yards away from the main agricultural instruction rooms.

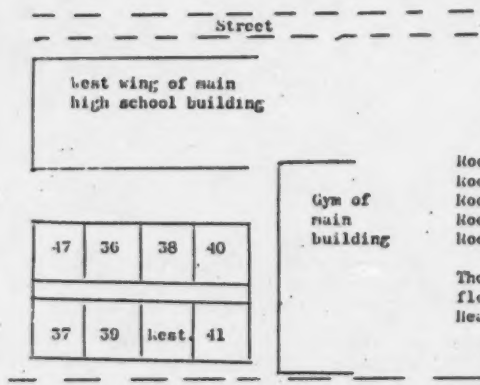
2. The tin building is what it implies. It is a temporary structure framed of wood and steel but covered with corrugated sheet metal that is steel. The floor, except in the small gym, is concrete with no other covering. There is little or no insulation in the building. Many parts of the building are below ground level. Heating is difficult at best. The interior walls are studded two-by-fours covered with inexpensive four-by-eight sheets of wallboard. The auto shop does not have a lift for working on the vehicles. The total physical education area is inadequate for providing a basic program of physical fitness for all of the boys. The woodworking area is a disaster in terms of health and safety. None of the usual safeguards exist in this area.

(The extra large shower and dress area is used to accomodate football teams. The high school football field and general athletic field is located immediately to the right of this building.)



Kipp 2-15-82

THE HIGH SCHOOL COMPLEX



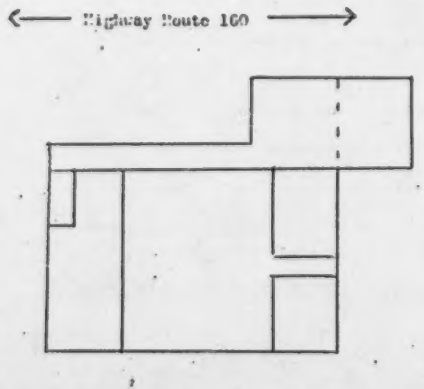
N

BUILDING NUMBER TWO

Room 40 is used as an English Classroom.
Room 41 is used as an English Classroom.
Rooms 37, 39 are typing rooms.
Rooms 36, 38 are used for teaching business education
Room 47 is used for teaching printing and graphic arts.

The entire building is a temporary structure made entirely of wood. The floors are plywood covered with carpet. Lighting is poor to adequate. Heating varies. The entire facility is grossly over-crowded.

THE COMMUNITY CENTER



This building is located about 150 yards west of the west wing of the main high school building. It is the most modern (in appearance) of all of the high school complex buildings. This is where the major basketball contests are held. The building seats roughly 1,500 to 2,000 people. This is inadequate for many of the contests held there. The building is made of steel, concrete, and stone. Driver education classes are held here and most PE classes. There is also a small stage at the facility.

West wing of main high school

PARKING LOT

W.H. 2-15-82

CHINLE SCHOOL DISTRICT NO. 24

P. O. BOX 587
CHINLE, ARIZONA 86503

February 17, 1982

Mr. Herbert Benally,
Special Projects Director
Chinle School District No. 24
Chinle, Arizona 86503

Dear Mr. Benally:

I wish to enter this formal letter as testimony regarding the matter of the possible construction of a new high school at Chinle, Arizona.

(1) In more than a quarter of a century of working with children, their education, and their futures, never have I seen such deplorable conditions as now exist for the education of Indian children at the Chinle High School Complex in the town of Chinle, Arizona.

The responsibility for this shame must be borne by everyone connected with the education of these children, parents, teachers, administrators, and most importantly the Government of the United States of America. When the Government of these United States took it upon itself to assume a paternalistic stance toward these special Americans, it also assumed the burden of caring for all of their special interests in life.

(2) This Government must now recognize that the ways of the Navajo are changing. Where little importance was once accorded an advanced education, today most Navajo see education as not only the key to their survival, but the key to the entire future of Navajoland.

(3) While the Navajo is not now self-sufficient and self-sustaining in a country filled with dynamic and radical change, such is not their dream for the future. Their futures, like most peoples everywhere, is tied, chained, and shackled to the best education it is possible for them to obtain. The highest unemployment rate in the nation bears mute and stark testimony in this regard. Without a salable skill, without the power of knowledge, and without the productivity and income that employment can bring, self-realization and self-respect are difficult companions to seek out and find.

(4) I wish now to address my personal observations of the Chinle High School Complex.

A. General:

I see an array of not less than eighteen separate buildings cast about in a devil-may-care manner that could never serve any USEFUL purpose let alone an educational purpose. None of the buildings are physically

tied to each other. The physical distance from the east campus to the west is more than a half a mile. From the north to the south, the distance is approximately a quarter of a mile. From the main administrative offices to the counseling office is a distance of not less than three-hundred yards. The distance from the office to the office of the athletic director is one-hundred and fifty yards. The distance to the physical education center is one-hundred and fifty yards. The school nurse is a full one-hundred yards away. Almost without exception, every one of the more than one-thousand children attending school at Chinle must move outside and go from one building to another each time a new class is formed during the day.

Point #1 With all of the recent emphasis on energy conservation, who could calculate the heat losses each time the doors are opened to go out and opened to enter a building? It has to be staggering.

Point #2 Who can calculate the resulting sicknesses and illnesses resulting from the exposure of children to the outside weather elements each time they change classes?

Point #3 How can a complex of buildings have proper administration of its facilities when the facilities are so scattered and so diversified? Can such an array serve the function of housing a good educational program? The answer is NO!

Point #4 Try looking at the nightmare of cleaning such facilities as a custodial staff moves from building to building trying to take their equipment with them. Better yet, try supervising the care and cleaning of such a monstrosity and setting up the schedule for same.

Point #5 Look at the miles of wire necessary for communication from one building to another. Many of the buildings have no communications, no fire alarms connected to master control panels, nothing.

Point #6 Most of the buildings are temporary frame and metal buildings. Doors have become warped and useless with time. Custodians simply chain and padlock them to hold them together. A serious safety hazard exists in all of these buildings from the standpoint of fire safety!

Point #7 Little or no insulation exists in all of these buildings. The fuel losses must be monstrous.

Point #8 None of the buildings meets any of the criteria for access by handicapped children. To wit:

a. There are no ramps.
b. Light switches and thermostats are too high as are fire alarm devices.
c. There is not one restroom facility for the handicapped.
d. The panic bar devices are not adjusted to the proper pressure on the exit doors.
e. The width of the doorways is not wide enough to admit the passage of wheelchairs.

f. The drinking fountains are too high and not accessible.
g. The halls in some buildings are dangerously narrow (less than six feet in the main building). When the pupils open lockers on both sides of these hallways, the distance is dangerously reduced to less than four feet. Hundreds of children are jammed into these halls at each change of classes.

Point #9 There is absolutely no night lighting for the outside of any of these buildings. For this reason, few night functions are held by the student body at night.

Point #10 Almost each and every room in the entire complex has an individual heating unit that functions on its own with natural gas. These units are roof mounted or crawl-space ceiling mounted. The dangers of fires and explosions are constant. Antiquated wiring and gas plumbing only add to this frightening prospect.

Point #11 No one could adequately measure the health hazard that exists in this facility for the children who attend school here. Because there are little or no sidewalks, mud is brought into the school by the hundreds of pounds on the shoes and boots of the children. This mud embeds itself in the carpets. When it dries, the normal movement of children changing from one class to another sometimes makes it impossible to even see from one end of a building to another. This occurs every time it rains or snows, which is frequent during the months from November to April. One often wonders what expectorates might have been brought in with the mud from the outside as one sees the bulging pockets of tobacco the boys carry. Dust is everywhere.

In short, we are dealing with an old worn out facility that has long outlived its usefulness to any one. All are weary of putting patches upon patches. It is pouring money down a rathole. No child, no human being should have to live, work, and study in such a facility as the Chinle High School Complex.

David P. Kipp
Box 160
Chinle, Arizona 86503

Mr. Kipp has a bachelors and masters degree in education from California State College in Pennsylvania. He has studied at Penn State University, The University of Pennsylvania, West Virginia University, Colorado State University, and the University of Northern Colorado. He has been a superintendent of schools for nine years in Colorado. Currently, he is the assistant high school principal at Chinle High School.

TO: Mr. Walt Zhart
Chinle High School Superintendent

FROM: Chinle District #24 and #25 Student Council

DATE: March 5, 1982

We, the Chinle High School Student Council are presenting you with reasons for the possibility of getting a new school. The following list has been given by the Student Council as a whole:

*the school is built for only 500 students and yet we have approximately 1,000 students attending school
*need a decent place to have assemblies, graduation, and other special activities
*a well sanitized cafeteria (designed specifically for eating only)
*buildings are all spread out
*hallways are too small especially when it comes to changing classes
*we have about 80 teachers and a teacher's lounge that accomodates 10 teachers
*the buildings are sinking
*the lab rooms are too small
*need a special classroom for valuable machines such as computers and typewriters to be kept in
*lack of enough working restrooms, water fountains, etc. (an overall problem-lack of adaquate heating and air conditioners)

Yvonne Begay
Student Council President

Student Council Vice President

Student Council Sponsor

CHINLE SCHOOL DISTRICT NO. 24

P. O. BOX 587
CHINLE, ARIZONA 86503

March 2, 1982

Herbert Benally
Special Projects Director
Chinle Public Schools

Dear Mr. Benally,

You requested that I comment upon what it is like to teach in a deteriorating physical plant such as that presently occupied by the students at Chinle High School. It is, Mr. Benally, a difficult job.

As you know, the original facility at CHS was built in the 1960"s for an estimated student population of 400-450. With the addition of several outbuildings, this facility now serves 1000-1100 students. This is done in buildings with ceilings stained and damaged by repeated roof leaks, where acoustic tiles, once gone, are never replaced, where water gathers in puddles in the corners and damages valuable equipment. Visually, all the buildings are a wreck. It is impossible to keep up with needed maintenance. Everywhere you look something is damaged or missing.

The temporary buildings are also on their last legs. Supposedly designed for a Phoenix environment, these structures rattle and shake when students walk down the halls; they are literally coming apart at the seams, abused by student use beyond their capacity.

Those whose job it is to assess what is needed for "quality" education stress that the nature of the physical plant alone does not make for the proper educational environment. At CHS the quality of the physical plant controls the quality of the education. CHS is a depressing place in which to work as a teacher, and it is a depressing place to come to as a student. It is difficult to have pride in buildings that are falling apart. It is difficult to have pride as a student when you are told by every visiting team that your school is a garbage pit.

Chinle High School needs a new physical plant, of that there is no question.

Yours truly,
John M Moore
Chairman
CHS English Department

97-159 O - 82 - 8

CHINLE COMMUNITY FIRE DEPARTMENT
P.O. Box 825
Chinle, Navajo Nation, 86503

January 12, 1982

Mr. Walt Zahrt
Superintendent of Schools
CHINLE SCHOOL DISTRICTS

Dear Mr. Zahrt:

In the past, the Chinle Community Fire Department has talked to the Chinle School District administrators concerning several dangerous Fire and Life safety hazards that exist within the School District.

I would like to take this opportunity to bring these to your attention so that they might be addressed in the future as you plan for a new budget year. These problem areas could and do provide a very serious and potentially dangerous atmosphere for everyone involved. One accident related to the following deficiencies could result in the loss of life and property, and lead to a lawsuit against the School District.

Some problems such as chained exit doors could be eliminated immediately. I realize that other problem areas will take time and money to implement.

The following are recommendations that are violations of the Arizona State Fire Code and/or OSHA Regulations:

ASFC Sec. 13.302.....1)	Fire Alarm Systems need to be brought up to code requirements. In some cases there is no alarms at all. Such as the high school shops and outside classrooms.
ASFC Sec. 1.216.....2) NFPA 101 Sec. 8-1.5	The boys' gym at the high school does not have suf.icient exits nor exit capacity to be occuped by more than 50 persons at any time. Movies, assemblies and other like uses should be prohibited until the proper number and type of exits are installed.

ASFC Sec. 10.104 (b,e)...3) OSHA 1910.35 NFPA 101 Sec. 5-2.1213	Doors used for exits are not to be chained and locked during the time building is occupied.
ASFC Sec. 10.113 (a,b,c) .4)	Exit signs need to be installed in some areas and maintained in all of the district facilities.
ASFC Sec. 1.216.....5) NFPA 101 Sec. 5-2 (1144) OSHA 1910.35,36,37	All exit doors in the shop areas are to open in the direction of exit travel and should have panic hardware.
ASFC 10.114 (a,c,d).....6)	Fire drills are to be conducted at each school once a month and records kept of each drill.
ASFC 13.301 (a).....7)	Fire hydrants are needed in the elementary and Jr. high school compounds. Trailer court areas are unprotected in some areas.
ASFC Sec. 1.216.....8) NEC (NFPA-70)	Electrical recepticals need to be covered (no open bare wires).
Recommendation.....9)	Personnel should be trained on what to do during emergency situations, ie, switchboard operator, secretaries at the schools, etc.

The above recommendations do not constitute an official inspection, only observations made by the Fire Department while living, working, and practicing fire drills around the Chinle area. The fire department would be willing to do inspections when ever the school district would request us to do so.

The fire department, to date, has conducted one official inspection for the Chinle High School Day Care Center, last year, which was requested by Katie Powell. Once again, I would like to encourage the district to implement these recommendations as soon as possible.

Thank you for your consideration in this matter and for the assistance and cooperation you have already extended to the members of the Chinle Community Fire Department.

Sincerely,

William F. Smith, Sr.
Fire Chief

CHINLE SCHOOL DISTRICT NO. 24
P. O. BOX 587
CHINLE, ARIZONA 86503

March 2, 1982

Mr. Walt Zahrt, Superintendent
Chinle School District #24 & 25
Chinle, Arizona

Dear Mr. Zahrt:

As president of the Chinle Classroom Teachers Association, I am concerned about the quality of teaching facilities and equipment in our school district. We have several problem facilities, as you are well aware, but none is as serious, nor as unlikely to be solved within the forseeable resource limits of the district, as those which presently serve the students of Chinle High School.

The main building at Chinle High, the only truly permanent structure, was built more than twenty years ago to serve approximately 350 students. Several temporary buildings have been added to the school to create more classroom space as the school population has grown. The present group of structures houses between 900 and 1000 students every day, every year.

The expectable result of this growth is that Chinle High School is extremely congested. In the hallways of the main building, in between classes, students and teachers can often only pass through in one direction at a time, and teachers frequently cannot open the doors to their classrooms. The walkways between the buildings are crumbling from age and overuse, and students must often leave these walkways, to walk in mud, snow or ice, because of congestion.

The cafeteria in the main building, which also serves as the girls' gymnasium and the auditorium, is too small to hold more than half the students safely at any one time. It is impossible to hold a school-wide assembly. Students waiting in lunch line are forced to stand outside in all types of weather.

Even though some restroom facilities were added with the temporary buildings, there are at present only five usable student bathrooms (three female, two male) and one staff bathroom in the school. The number and size of these facilities are clearly inadequate.

Because there are so many buildings spread over a large area, there is still no universal bell system, clock timer, or intercom system throughout the school, and the cost of installing and maintaining an adequate system is prohibitive. This continually creates confusion and difficulties with controlling students.

CHINLE SCHOOL DISTRICT NO. 24
P. O. BOX 587
CHINLE, ARIZONA 86503

Finally, most, if not all, of the temporary buildings have deteriorated to a point at which they leak large amounts of unheated air and water into the classrooms. Portions of many occupied classrooms are unusable in cold or wet weather because of water leaks in the ceilings, and some of our classrooms have become totally unusable.

All of the above problems are seen as a potential safety or health threats to our students and our staff. In addition, these problems create continuous inconveniences and significant morale problems for all members of the school community.

The Chinle Classroom Teachers Association strongly recommends that all efforts should be made to obtain the funds needed to construct new and adequate buildings for the students of Chinle High School.

Sincerely,

Anne S. Tighe

Anne S. Tighe, President
Chinle Classroom Teachers Association

APPENDIX (A)

Population Estimates
The Navajo Nation
July 01, 1979

	NAVAJOS		NON-NAVAJOS	
AGE	MALE	FEMALE	MALE	FEMALE
0 - 4	9992	10,001	556	548
5 - 9	11,126	11,320	697	691
10 - 14	10,751	11,224	732	720
15 - 19	8782	9413	589	570
20 - 24	5771	6621	466	570
25 - 29	4136	4868	569	667
30 - 34	3463	4193	538	608
35 - 39	3081	3756	494	510
40 - 44	2649	3248	450	454
45 - 49	2223	2623	392	410
50 - 54	1871	2105	352	361
55 - 59	1606	1733	297	317
60 - 64	1399	1517	219	242
65 +	3228	3217	327	367
TOTAL:	70,078	75,839	6678	7035
TOTAL:	145,917		13,713	

NAVAJO

Male Median Age.....16.8 years
Female Median Age.....17.8 years

Source: Information Services Department
The Navajo Tribe

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
HEALTH SERVICES ADMINISTRATION

Date: August 27, 1979

Reply to Attn of: NAIHS-Facilities Management

AUG 30 1979

Thru: Area Director

Subject: Chinle Housing

To: Chinle Service Unit Director

Reference is made to your correspondence dated July 26, 1979 regarding the housing for the Chinle Comprehensive Health Care Facility. It was requested for my office to provide a "mix" of percentage of housing between one, two, and three bedrooms. This determination was to be based on the staff distribution observed at Tuba City, Shiprock, and Fort Defiance.

A review of the staff distribution at these facilities reveals the following percentage of employees who are single, married with children, and those who are married and without children.

	Total Employees	Single	Married W/Children	Married W/O Children
Tuba City	339	.25	.67	.08
Shiprock	197	.28	.70	.02
Fort Defiance	216	.18	.80	.02

The survey reveals statistically at these facilities that on the average 72% of the employees are married and with children, and 24% of the employees are single, and a small percentage (4%) are usually married and without children.

A review of the housing distribution at these same locations indicate the following mix.

	Total Available	1 Bedroom	2 Bedroom	3 Bedroom
Tuba City	253	.29	.25	.46
Shiprock	57	.46	.26	.28
Fort Defiance	75	.30	.37	.33

On the bases of these statistical observations, our office recommends the mix of housing units at Chinle to be:

30%	-	1 Bedroom
30%	-	2 Bedroom
40%	-	3 Bedroom

Indian Health Service no longer advocates 4 bedrooms.

Please inform us if your office is in agreement with our proposal.

Thomas G. Gallegos, P.E.
Chief, Facilities Management
Navajo Area Indian Health Service

CC: ROFEC IX - John Duffy
William L. Ryan, Dir - OEH

PROFILE CHART - CHINLE HIGH SCHOOL (9-12) 37

MCLEARY PROFILE CHART FOR RATING SCHOOL BUILDINGS

SCHOOL CHINLE HIGH COMPOSITE SCORE AND PROFILE GRADES 9-12 LOCATION CHINLE DATE 1-7-75

	SITE	BUILDING PLAN AND STRUCTURE	SERVICE SYSTEMS	CLASSROOMS		SPECIAL ROOMS			TOTAL
				REGULAR	SPECIAL	PUPIL ACTIVITIES	SERVICE	ADMINISTRATION	
MAXIMUM POSSIBLE SCORE	120	110	225	245	70	70	50	50	1000
ASSIGNED SCORE	71	109	151	139	54	17	27	31	599
EXCELLENT	120	110	225	245	70	70	50	50	1000
	108	99	202	220	63	63	45	45	900
SATISFACTORY	96	88	180	196	56	56	40	40	800
SUB-SATISFACTORY	84	77	157	171	49	49	35	35	700
BORDER-LINE	72	66	135	147	42	42	30	30	600
GENERALLY POOR	60	55	112	122	35	35	25	25	500
VERY POOR	48	44	90	98	28	28	20	20	400
INADEQUATE	36	33	67	73	21	21	15	15	300
OBSOLETE	24	22	45	49	14	14	10	10	200
THOROUGHLY UNSUITABLE	12	11	22	24	7	7	5	5	100
	0	0	0	0	0	0	0	0	0

FACILITY EVALUATION SUMMARY

A/E Firm : Stearns-Roger Architects, Ltd.

Location Code : N35-01 (By Others) Building No. : 136

Location Name : Chinle Agency Hedqtrs Utility Sys. :

Agency Name : Chinle Date : 7/9/79

Area Name : Navajo

Facility Condition 2 (1,2,3,4) Safe For Occupancy: Yes ____ No ____ Cond. X *

Facility Recommendation: Upgrade: X Replace: ____ Other Use: ____

Useful Life: As-Found: 5 Yr UpGrade: 15 Yr Replace: ____ Yr

UpGraded Cost: $493,547 Replace Cost: ____

* Annual Operating Cost: As-Found ____ UpGrade: ____ Replace: ____

Building Use: Original: ____ Changed: X Adequate: Yes X No ____

Adequate Site: Yes ____ No ____

* By Others Building Utilization Factor 67 %

Facility Summary Statement:

This building is a single story elementary school building with three wings as indicated by accompanying plans. It is an 8" concrete block bearing wall structure on poured concrete wall and footings. Roof is built up with composition board on light weight steel joists. Ceiling is suspended acoustical tile. Floors are concrete on grade.

Except for boys' and girls' toilet rooms, the building is in fair condition. If these areas are renovated and returned to safe, code compliance condition, the school can continue to be used.

Because of the major cracking and settling of the walls and floors in the toilet rooms, projected usable life is seriously reduced.

*Due to the proximity of the Chinle area to earthquake Zone 2, a major tremor is possible. It is feasible that this could collapse the weakened walls and permit sections of the roof to fall.

FACILITY EVALUATION SUMMARY

A/E Firm : Stearns-Roger Architects, Ltd.

Location Code : N35-01 (By Others) Building No. : 138

Location Name : Chinle Agency Hdqtrs. Utility Sys. :

Agency Name : Chinle Date : 7-11-79

Area Name : Navajo

Facility Condition 4 (1,2,3,4) Safe For Occupancy: Yes ____ No X Cond. ____

Facility Recommendation: Upgrade: ____ Replace: X Other Use: ____

Useful Life: As-Found: 0 Yr UpGrade: NR Yr Replace: 40 Yr

UpGraded Cost: $653,811 Replace Cost: See Report - Bdlg. 90

Annual Operating Cost: As-Found ____ UpGrade: ____ Replace: ____

Building Use: Original: ____ Changed: X Adequate: Yes ____ No X

Adequate Site: Yes ____ No X

By Others Building Utilization Factor 20 %

Facility Summary Statement: Bldg. No. 138

This is a one-story building with single-wythe concrete block bearing walls, slab-on-grade floors, and steel joist roof structure. Originally designed as a co-ed dormitory, the building is now used in part for storage. Many of the windows have been boarded over.

The building has suffered extensive damage in the area of the toilet/shower rooms, probably due to leaks in the underfloor plumbing which has saturated the soils and caused heaving and settling, rendering the building unfit for human occupancy. Cracking of bearing walls and floor settlement in various other locations are indicative of foundation and slab movement. The lack of an adequate graded watershed around the exterior and proper disposal of storm water may be contributory to an unstable bearing soil condition and deterioration of the masonry walls.

FACILITY EVALUATION SUMMARY

A/E Firm : Stearns-Roger Architects, Ltd.

Location Code : N35-01 (By Others) Building No. : 139

Location Name : Chinle Agency Hdqtrs. Utility Sys. :

Agency Name : Chinle Date : 7-20-79

Area Name : Navajo

Facility Condition 4 (1,2,3,4) Safe For Occupancy: Yes ____ No X Cond. ____

Facility Recommendation: Upgrade: ____ Replace: ____ Other Use: ____

Useful Life: As-Found: 0 Yr UpGrade: ____ Yr Replace: ____ Yr

UpGraded Cost: ____ Replace Cost: ____

Annual Operating Cost: As-Found ____ UpGrade: ____ Replace: ____

Building Use: Original: ____ Changed: X Adequate: Yes ____ No X

Adequate Site: Yes ____ No ____

By Others : Building Utilization Factor 75

Facility Summary Statement:

For general description of building and defects, please refer to Facility Summary Statement for Building 138.

Building 139 has been converted to office and classroom space and is used by the Arizona Public Schools. However, the basic defects of the building still exist which render it unsafe and uninhabitable.

In addition to the structural, sanitary, roof, and energy consumption problem, there is a lack of adequate lighting, electrical service, heating control and ventilation for an acceptable office/classroom environment. Most of the operable windows have been inactivated due to hardware malfunctions by screwing the sash to the frame.

It is the recommendation of this report that building 139 be demolished. Since the present use is not a function of BIA, no replacement structure is proposed.

Facility Summary Statement: Bldg. No. 138 (cont.)

purpose would first require stabilization of the foundations, followed by work necessary to protect that large expenditure - development of site and roof drainage systems, a new roof, exterior wall repair and painting. To avoid additional modifications necessary to achieve energy conservation and a habitable interior, the building could be used as an unheated warehouse. Even for this low level use, however, additional monies should be spent to clean up the damaged toilet areas and provide large doors with surfaced access at several locations (interior vehicle traffic not possible due to low ceilings and low capacity floor).

In summary, it is the conclusion of this report that the building is unsafe for occupancy and that it is not economically feasible to upgrade the building for any use. Demolition is recommended, with the storage function of this building, Bldg. 140, and miscellaneous warehouse structures relocated to a new warehouse. See estimate under report for Building 90 for a 25,000 SF warehouse building.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
CHINLE AGENCY
P. O. BOX 7
CHINLE, ARIZONA 86503

IN REPLY REFER TO:
Superintendent

DEC 18 1981

Hebert - This will help, but we do need to push ahead on new facilities
WB 12-28-81

Mr. Walt Zahrt, Superintendent
Chinle Public Schools
P.O. Box 587
Chinle, Arizona 86503

Dear Mr. Zahrt:

Your memorandum of November 25, 1981 has been received and given careful consideration by this agency. Your request to extend the Use Permit through the 1982-1983 school year for building 136, wings A, B, and C is approved.

A decision will not be made at this time however, in regards to your request to extend the permit through the 1983-1984 school year. The Bureau of Indian Affairs will evaluate the structual safety of the three wings before a decision can be made on this request. This evaluation will be conducted in early 1983 and a decision will be made at that time to continue or discontinue the Use Permit.

I am fully aware of the time and funds required to house the number of students presently occupying the Primary School. However, since structual damage is already evident, the main concern is for the safety of the students and employees already using those buildings.

Please be advised that several of the deficiencies noted in the Agency Safety Manager's inspection of the Primary School still have not been corrected. These must be corrected immediately, if not the entire use permit may be cancelled.

If you have any comments or questions on the above you may contact me at your convenience.

Sincerely,

Superintendent, Chinle Agency

aeking

APPENDIX B

CHINLE ELEMENTARY SCHOOL DISTRICT
ACTUAL REVENUES - M & O BUDGET
1980 - 81

Local Sources		
Beginning Fund Balance	$ 639,328.	
Tuition - other Arizona Districts	163,698.	
Interest on investments	125,647.	
Real Property Taxes	29,836.	
Other sources	171,885.	
Total local sources		$ 1,130,394.
County Sources		
County Equalization	$ 308,878.	
Total County Sources		$ 308,878.
State Sources		
State Equalization	$ 4,310,548.	
Total State Sources		$ 4,310,548.
Federal Sources		
PL 874 revenue	$ 1,852,773.	
Total Federal Source		$ 1,852,773.
Total From All Sources		$ 7,602,793.
Percentage from:		
Local Sources	14.9 per cent	
County Sources	4.1 per cent	
State Sources	56.7 per cent	
Federal Sources	24.3 per cent	
Total	100.0	

CHINLE ELEMENTARY SCHOOL DISTRICT
ESTIMATED REVENUE - M & O BUDGET
1981 - 82

Local Sources		
Beginning Fund Balance	$ 544,000.	
Tuition, Other Arizona Districts	100,000.	
Real Property Taxes	707,673.	
Total Local Sources		$1,351,673.
State Sources		
State Equalization	$ 3,682,621.	
Total State Sources		$ 3,682,621.
Federal Sources		
PL 874 Revenues	$ 2,373,577.	
Total Federal Sources		$ 2,373,577.
Total From All Sources		$ 7,407,871.
Percentage from:		
Local Sources	18.2 per cent	
State Sources	49.7 per cent	
Federal Sources	32.0 per cent	
Total	99.9	

CHINLE HIGH SCHOOL DISTRICT
ACTUAL REVENUES - M & O BUDGET
1980-81

Local Sources		
Beginning Fund Balance		- 0 -
Tuition - other Arizona Districts		$ 159,273.
Interest on investments		62,275.
Real Property Taxes		727,793.
Other local sources		5,202.
Total local sources		$ 954,543.
County Sources		
County Equalization		$ 159,056.
Total County sources		$ 159,056.
State Sources		
Equalization Assistance		$ 2,249,242.
Total State sources		$ 2,249,242.
Federal Sources		
PL 874 revenue		$ 997,067.
ROTC - Army		17,306.
Total Federal sources		$1,014,373.
Total from all sources		$4,377,214.
Percentage from:		
local sources	21.8 per cent	
county sources	3.6 per cent	
state sources	51.4 per cent	
federal sources	23.2 per cent	
Total	100.0	

CHINLE HIGH SCHOOL DISTRICT
ESTIMATED REVENUES - M & O BUDGET
1981 - 82

Local Sources		
Beginning Fund Balance		$ 52,581.
Tuition, Other Arizona Districts		100,000.
Real Property Taxes		457,219.
Total Local Sources		$ 609,800.
State Sources		
State Equalization		$ 2,416,728.
Total State Sources		$ 2,416,728.
Federal Sources		
PL 874 Revenues		$ 1,271,260.
Total Federal Sources		$ 1,271,260.
Total From All Sources		$ 4,297,788.
Percentage from:		
Local Sources	14.2 per cent	
State Sources	56.2 per cent	
Federal Sources	29.6 per cent	
Total	100.0	

APPENDIX C

Federal support of reservation public schools is inadequate. The fact of the matter is that reservation public schools are in financial trouble.

Caught between rising costs, changing enrollments and reduction in Federal operational support, Arizona's reservation public schools are facing a financial crisis of immense proportions. What makes the situation even worse is the fact that these schools are also without sufficient funds to meet their physical plant needs, many of which are in deplorable condition. In short, the future of Arizona's reservation public schools is by no means assured.

It is obvious, however, that all levels of government; local, state, and federal, have a responsibility to assure that reservation public schools are provided with adequate resources to insure a successful educational program. The federal government has an important share of this responsibility since the presence of tax-exempt Indian lands contribute directly to the financial problems of reservation public schools. Yet, the federal government has recently diminished its commitment in providing funds to meet the operational costs of these schools.

The basic dilemma facing reservation public education, in Arizona at least, is the determination of State and Federal responsibility. There are those in and out of the Federal Government who continually insist that the total responsibility for

education on Arizona Reservations belongs to the State. They point out the legal commitment in the Arizona Enabling Act and the Arizona Constitution which provides for an education for all Arizona residents. On the other hand, those at the State level and elsewhere, point to the Federal Government as having the primary, if not sole responsibility, because of the United States Treaty with the Navajo Nation in 1868. In this Treaty, the Federal Government promised to provide one teacher for every thirty children of school age. It is this cross accusation that results in inadequate support from both levels with the result that reservation public schools in Arizona are in real jeopardy. The problem is primarily one of adequate finances.

The P.L. 81-874 monies were extended to cover Indian reservation because the Federal Government was seemingly trying to relieve the financial burden of public school districts with non-taxable land; instead, what they probably had in mind were "urban" reservations where a chuck of land within a larger district was non-taxable. Hence, funding under the P.L. 81-874 program has really not served as an adequate substitute for property taxes in districts primarily located on reservations in Arizona. The real problem for Arizona Reservation Public Schools lies in having available to the schools adequate Federal money that can be used within the budget for the operational needs of the district.

The State of Arizona deliberately or unintentionally passed a law which discriminates against reservation public school

districts in terms of the formula for the distribution of state aid. In 1974, and again in 1979, the formula caused the Chinle District to have budget deficits from which we have never fully recovered (please see Exhibits A, B, and C). Ultimately this lack of adequate funding for the operational needs of the Chinle District resulted in the District's being unable to meet its employee payroll obligations. (See Exhibit D)

The proposed Federal cutbacks in educational funds will place the public reservation school districts in continued jeopardy. In P.L. 93-638, Indian Self-Determination and Education Assistance Act, the Congress declared that self-determination in any society is dependent upon the educational process. It seems unlikely that the denial of equal education opportunity, due to lack of funding, will enhance the process of Indian Self-Determination.

CHINLE SCHOOL DISTRICT NO. 24

P. O. BOX 587
CHINLE, ARIZONA 86503

BOARD OF TRUSTEES
Frank Adakai - President
Mary Ina - Clerk
Pat J. Ashley
Thomas H. Begay
Jerald LaFont

March 13, 1974

Dr. John W. McCoy
Superintendent

Exhibit A

Apache County Board of Supervisors
St. Johns, Arizona 86503

Gentlemen:

The Board of Trustees of School District No. 24 would like to request your permission to increase our Budget by approximately $90,000.00 to cover the deficit caused by a drop in A.D.A., due to illness, bad weather, bad roads, time changes, etc.

We had estimated an A.D.A. of 3,000 and it is our understanding that the A.D.A. will actually be 2911. We feel we have a legitimate request and would appreciate your approval.

Sincerely yours,

Frank Adakai

Mr. Frank Adakai, President
Board of Trustees
Chinle Public Schools

John W. McCoy

Dr. John W. McCoy
Superintendent of Schools
Chinle Public Schools

STATEMENT Exhibit B

Prepared By

Dr. Robert A. Roessel, Jr., Superintendent,
Chinle Public School District No. 24
Chinle, Arizona 86503

September 2, 1975

I would like to place in the record the acute concern of the Chinle Public School District with regard to the absence of adequate written definitions with regard to carrying out the new Attendance Counting Procedures providing in Senate Bill 1001. Last year, the District sought precise definitions and criteria to be used in determing such phrases as "Wide Spread Illness", "Adverse Weather", and "Student Refusal". We received no written definitions but only interpretations provided by different individuals located in the State Department in Phoenix. These suggestions as to what constitutes each category varied from person and time and place. This state of confusion and chaos continued throughout the year.

Without precise definitions, it is utterly impossible to know what is expected and what is meant by these terms. For example, under the requirements which states that if a student does not attend school for a period of ten days, he is to be dropped. Questions such as what would happen within the ten day period it busses could not run to the area in which the student resided and whether you should under such circumstances begin counting the ten day period under. In other words, nobody knew precisely what was meant by these terms.

Last Spring, I wrote Mrs. Warner explaining the need to develop such detailed information to accompany instructions concerning the registers. Shortly later, I meant personally with Mrs. Warner and again expressed my convictions with some such information needed to be forthcoming from her office. She agreed and expressed surprise that such data had not been provided. About the middle of August, I again wrote Mrs. Warner pointing out that we still had not received anything in writing concerning this matter as to adequate definitions and criteria. In my letters and conversations I did point out I felt it would be most desirable to involve individuals from reservation districts who experienced the problems of last year. In this way, we would be involved in the development of the definitions and criteria.

Something in written form must be developed for use throughout the State if we are to prevent the problems and frustrations of last year.

CHINLE SCHOOL DISTRICT NO. 24

P. O. BOX 587
CHINLE, ARIZONA 86503

BOARD OF TRUSTEES
Frank Acklol, President
Gerald L. Fort, Clerk
Thomas H. Begay
Teddy Draper Sr.
Mary Ina Nina

January 13, 1976

Robert A. Roessel, Jr.
Superintendent of Schools

Exhibit D

The Honorable Peter MacDonald, Chairman
The Navajo Tribe
Window Rock, Arizona 86515

Dear Chairman MacDonald:

On behalf of the Chinle Public School District and in pursuance with the Tribal Council Resolution passed unanimously on December 16, 1975, we are requesting that the Tribe purchase the Chinle District payroll for January 16, 1976, totaling $162,696.10.

This action will allow the District to meet it's payroll. We want to state to you and to all members of the Tribal Council our deepest concern in which they agreed to purchase warrants totaling up to $450,000 for which the Tribe would be repaid and receive 6% interest.

Sincerely yours,

Robert A. Roessel, Jr., Superintendent of Schools
Chinle Public Schools

RAR:ggd

It is not the intent of the author to delve into the details of the Arizona School Finance Act because that would be beyond the scope of this paper. However, a few comments concerning the operation of the Arizona School Finance Act appear pertinent.

THE ARIZONA PUBLIC SCHOOL FINANCE ACT

There are three basic funds that come under the support level of the Arizona School Finance Act:

001 Fund--Regular Educational Program

This fund provides for the vast majority of day to day operating expenses such as most teachers' salaries, classified salaries, administrators' salaries, employee benefits, maintenance, and utilities.

002 Fund--Special Educational Programs

This fund was designed to contain the Special Educational Programs in the district such as Special Education, Vocational Education, and Bilingual education. However, as stated previously, this did not occur in the Chinle Districts in 1980-81 as it pertains to the budgeting and accounting functions.

004 Fund--Pupil Transportation

This fund is most likely the "purest" of the three funds in that it contains expenditures for the pupil transportation program; for example, salaries for bus drivers and mechanics,

gas and oil for buses, employee benefits, repairs for the buses. (It does not provide for purchase of buses.)

Some of the state equalization monies received by the Chinle School Districts belong to the Capital Outlay Fund (410 fund), but these are not considered significant by the author in discussing the Arizona School Finance Program.

The 001, 002, and 004 funds for the first time in 1980-81 came under the umbrella fund 000--maintenance and operation fund, sometimes referred to as M&O fund.

One of the most important concepts one must understand in the Arizona School Finance Act is that of the Budget Revenue Control Limit (BRCL). Each school district in Arizona has a different dollar amount in its BRCL which is shared largely but not exclusively by property taxes and state aid to support the 000 fund (M&O fund). Essentially, the Arizona Legislature establishes a base support level of so many dollars per weighted pupil. When these two factors are multiplied, and by adding a transportation allowance (unequalized), a district determines its BRCL for the budget year. Actually, the BRCL is tantamount to a BECL (Budget Expenditure Control Limit) (BECL is the author's acronym). It is very important that the reader clearly understands the following point: Assume a district has a BRCL of ten million dollars, and also that the district has revenues of fifteen million dollars. Under the Arizona School Finance Act, the ten million dollars becomes the dollar amount that can be expended in a given year, whereas

most people including teachers think that the district can spend the fifteen million dollars. In other words, the cash position and revenues generated by the district are irrelevant as far as the BRCL/BECL is concerned.

The Arizona legislature increases the base support level by seven per cent each year. Theoretically, one would surmise that a district's BRCL (BECL) would automatically increase by seven per cent annually. However, such is not automatically the case. When a school district is faced with declining enrollment such as the Chinle Elementary School District No. 24 has experienced in the past few years, it is possible for a district's BRCL (BECL) to decline from one year to the next. That is precisely the situation in the Chinle District No. 24 from 1980-81 budget year to 1981-82 budget year. Yet it is possible to hear teachers say "Hey, there is a seven per cent increase by the legislature." Yes, there is a seven per cent increase in the base support level each year but the declining enrollment dissipates that.

OTHER FUNDS

Food Service Fund

In 1979-80 the Food Service Fund dissipated a cash balance of about $75,000 and ended the fiscal year in a deficit position of about $32,000. Because the Board of Education granted salary increases of between 21 and 26 per cent, and the concomitant costs of employee benefits,

it has been necessary in 1980-81 to subsidize the Food Service Fund in the amount of approximately $600,000; $463,000 from PL 874 monies and the remainder from the 001 fund.

The Food Service Fund continues to be a substantial drain on district resources. The current administration is exploring the feasibility of contracting food services with a private party. Whether this contracting provides substantial savings to the district remains to be seen.

Capital Outlay Fund--410

The Capital Outlay Fund operates on a similar principle as does the 000 fund as it pertains to the Arizona School Finance Act. A base support level established by the State Legislature is multiplied by a district's enrollment to determine the Capital Outlay Fund spending authority. This Fund is supported largely by state aid and local property taxes. This method of funding for capital outlay items such as those allowed under the law has been a great benefit to the Chinle districts because the Chinle districts have been and currently are "property tax poor".

Capital Levy Fund--420

This fund was created to provide for specific capital outlay items. The unfortunate aspect of this fund is that it relies solely and totally for its source of revenue on the property tax. Since the Chinle districts are essentially property tax poor, the Arizona method of capital outlay funding in this particular fund is virtually useless to the Chinle districts. The major problem with the revenue in this fund is that it is totally unequalized by the State. Hence, the

wealthy become wealthier and the poor become poorer. The State Legislature of Arizona should eliminate this fantastic inequity among districts if it is concerned about equal educational opportunities for all children.

A district is legally entitled to have a host of other funds: (1) Teacherage fund which is unequalized and 100 per cent locally funded; (2) debt service fund which is unequalized and 100 per cent locally funded; (3) insurance proceeds fund; and a melange of federal funds which are largely categorical in nature.

REVENUES

The vast majority of revenues in the 000 fund of the Chinle districts emanates from state aid, property taxes, PL 874 monies, and tuition. It is beyond the scope of this paper to discuss the formula for funding under state aid. However, a few comments appear appropriate.

PL 874 Revenues

The federal government several decades ago decided that federal subsidies were needed in school districts that had large concentrations of students brought on by federal activities or in districts with large Indian student populations. Under federal statutes Chinle Public Schools are classified a "Super A" district because every student either is of Indian descent or lives on the reservation or both.

For fiscal year 1980-81 the Chinle Public Schools entitlement of money under PL 874 is approximately four million

dollars. Historically, these grants to qualified districts have been held "in addition to" any existing state equalization program in a state.

State Aid

Complex details of state aid apportionment are not discussed here; however, suffice it to say that State aid is apportioned to each qualified district in the State. Generally speaking, the wealthier (assessed valuation per ADM) a district, the less state aid and conversely so.

Property Taxes

The Chinle Public Schools are "property poor" with an assessed valuation of about $8,746,000 spread over 4,300 students. The assessed valuation of the Chinle school districts is comprised primarily of utilities since no individual in the districts pays property taxes. A tax rate of $.10 produces $8,746 or just a little over $2.00 per ADM. Obviously, it would require a large tax rate to generate any amount of revenue for the education of students.

Tuition

The Keams Canyon district (Hopi) sends about 125 elementary students and about 80 high school students to the Chinle Public Schools, and, as a result, pay the Chinle school districts about $500,000 annually in tuition.

LOOKING AHEAD

Under Arizona statutes a district can appeal to its electorate for an increase of not more than ten per cent in its BRCL (BECL). As stated earlier the Board of Education

over-obligated the 1980-81 budget in the amount of approximately one million dollars. Unless significant expenditure cuts are made these expenditures carry over into the 1981-82 budget. No cuts were made.

Between the elementary district suffering a slight decline in ADM and the high school district experiencing a slight increase in ADM, there is less than two per cent "new money" in the 1981-82 budget than in the 1980-81 budget as far as the 000 fund is concerned. This places an extreme burden on the district in funding any new positions and/or providing the current employees with raises in pay.

The current administration (author included) encouraged the Chinle School Districts Board of Education to consider appealing to its electorate for approximately one million dollars for the two districts in anticipation of the 1981-82 budget. Statutes prescribe May 19 as the election day. The Board of Education has ordered such an election to occur. Any increases voted by the electorate are funded under Arizona statutes by the local property taxes. If this override election of one million dollars in the 000 fund is successful it will essentially accommodate the one million dollars over-obligated by the Board in its 1980-81 budget.

Many people have inquired of the author what happens if the budget election override fails. Very simply, the Board of Education would be forced to remove one million dollars of proposed expenditures from the 1981-82 budget.

Arizona statutes provide that the budget election override, if successfully passed by a simple majority, is in effect for only three consecutive years.

Many teachers with whom the author has conversed have expressed the following opinion: "Gee, the second year we will have lots of money." To draw such a conclusion is faulty reasoning because contractual obligations, unless trimmed, simply carry forward to the next budget year.

At the very best it is the author"s opinion that even if the budget override election carries, that 1981-82 will indeed be a "tight" fiscal year in which to operate the Chinle Public Schools.

PROBLEM AREAS IN THE ARIZONA SCHOOL FINANCE ACT

The Arizona legislature and the Arizona Department of Education use the term "equalization" in glowing and loose terms. The central question is: "What is equalized under the Arizona School Finance Act?"

It most likely can be logically argued by reasons of expenditure disparity that the 000 fund of an Arizona school district is "equalized". The author prefers to argue that they are not completely and truly equalized from several points of view:

(1) There is no recognition of "student need" in the Arizona school finance act; no one has determined how much additional money, if any, is required to educate an Indian

student because of the language barriers inherent in the cultural environment. One might logically ask what has the Arizona legislature or the Arizona Department of Education done to determine such an educational need?

Logically, since the Arizona Department of Education has not determined student needs or expenditure levels to accommodate such needs, its solution is to deduct state aid in lieu of PL 874 funds from the federal government. In the famous words of the Serrano case; "If money in fact does not make a difference, then let me enjoy that luxury." According to the ADE this deduction or potential deduction of state aid is legislatively mandated.

(2) There is little or nothing in the pupil transportation fund (004) that is equalized. The funding formula is based on the lesser of miles times dollars (set by the legislature) or students times dollars. The very best anyone can argue is arbitrary legislative dollars multiplied by different variables which may in fact have nothing to do with pupil transportation costs. Can anyone claim that the pupil transportation fund is equalized?

When an urban school district finds it necessary to repair a bus it simply goes around the corner to find repairs. The Chinle school districts must travel to Holbrook, Farmington, Gallup or Phoenix depending on the nature of repairs. Is this excess cost equalized? The answer is clearly in the negative.

Has anyone in the Arizona Department of Education traveled many of the off-pavement roads during the rainy season in the Chinle school districts? Is this excess cost equalized?

The Chinle school districts are volunteers this year in a pupil transportation study mandated by the Arizona legislature. If and when an "equalized" pupil transportation funding program is enacted and implemented, there are a multitude of factors which must be taken into consideration if equalization is to be achieved.

Concerning the capital acquisition of pupil transportation buses--can anyone in either the legislature or the ADE claim that funding for buses is equalized?

(3) School districts on the reservation must provide housing for certified and classified personnel. Is this excess cost equalized in the Arizona school finance act? Unfortunately, the answer is no. Is the excess cost of maintenance and repair on the housing equalized? No.

These are just a few of the inequities in the current Arizona school finance act. The list goes on ad infinitum. Who cares? The legislature should care; the Arizona Department of Education should care; everyone should care who is truly concerned with equity of educational opportunity.

To be more specific, using questionable data, the ADE, under legislative mandate, and supported by the Feds, is suggesting that the solution for 1980-81 is a deduct of state aid payments to the Chinle district equal to 20 per cent of 80 per cent of the district's PL 874 1980-81 receipts. This

97-159 O - 82 - 10

could occur in June, 1981 which would mean in the Chinle school districts an estimated state loss of about $500,000. For consecutive, succeeding years, 40 per cent of 80 per cent; 60 per cent of 80 per cent; 80 per cent of 80 per cent; and finally, 100 percent of 80 percent. Is this an equitable solution?

The State legislature has provided no equalization program for the specific purpose of purchasing school buses. Such a state supported program is relatively easy to establish and administer provided the state legislature is interested in equity for its citizens. It is acknowledged that the Capital Outlay Fund has some element of equalization, and subsequently, for buses, provided a district can afford to purchase its buses out of this fund.

The Capital Levy fund is totally unequalized. Some districts wealthy in terms of assessed valuation (totally disregarding the number of children to be educated) are able to produce hundreds of dollars whereas a poor district in terms of assessed valuation is able to produce relatively few dollars for the education of children. There is tremendous inequity in the Capital Levy fund. The message is "the rich get richer, and the poor get poorer."

One of the greatest injustices in the funding of K-12 public education in the State of Arizona is the horrible and repugnant unequalized debt service fund. The Chinle school districts have the capability of going into debt about three million dollars which in today's market will not erect a

school building for 200 students. With the Reagan confiscatory fiscal program, most likely PL 815 monies for school construction will dry up and leave the Chinle Public Schools in a most precarious position because the Arizona legislature does not provide one penny in its school finance program for school building construction. The debt service fund is totally unequalized since the only revenues are generated from the property tax. In the Chinle school districts this places an undue hardship on the utilities.

There is absolutely no equalization in the Food Service Fund. The vast majority of the children in the Chinle school districts receive free lunches thereby forcing the Chinle districts to rely on National School Lunch revenues (which Reagan wants to cut) and subsidies from the 000 fund thereby placing a greater burden on the 000 fund.

The author leaves it to the reader to determine the answer to the question: "What is equalized?"

It will indeed be interesting in the next few years to observe the efforts of the Arizona legislature and the Arizona Department of Education as well as the results if equalization is truly achieved.

Senator DECONCINI. Mr. Edwards.

Mr. EDWARDS. I am Clifton Edwards, superintendent of schools of the Whiteriver District, which is totally on the Fort Apache Indian Reservation. I will make this very short so that other people can have some time, too.

Only one statement. Our assessed valuation is $1,657,000. So you can raise very little taxes. We have no real estate. The only taxable property there is all personal property, and that is the rural electrification and the telephone. We have five private businesses there and a few trailer homes.

So, in essence, we could get by next year without any problem, but after that we would have to close.

Senator DECONCINI. Your testimony is that after next year you would have to close?

Mr. EDWARDS. Probably would have to.

Senator DECONCINI. If this budget were adopted?

Mr. EDWARDS. And at the present time we have just completed, through 638, a new $8.5 million high school, which would probably have to be closed.

Senator DECONCINI. Do you see any assistance from the State of Arizona?

Mr. EDWARDS. There is no way they can help us that I know of.

Senator DECONCINI. And you do not anticipate any legislation or an angel to drop into your lap?

Mr. EDWARDS. I have not seen any flying around.

Senator DECONCINI. Mr. Edwards, I am slightly familiar with your school district there in the Whiteriver area, and I compliment you for an outstanding job. How many students would be involved in this school?

Mr. EDWARDS. Approximately 1,700.

Senator DECONCINI. And where would they be going to school then?

Mr. EDWARDS. Well, the BIA has three schools there: one within 4 miles of Whiteriver, which has some 250 students; another one 18 miles away at Cedar Creek, which has about 250; and Sibique, which is 50 miles away, has approximately 125 students.

Senator DECONCINI. So you have about 625 or 650 students already in the BIA schools.

Mr. EDWARDS. BIA schools, yes.

Senator DECONCINI. It your district closed, you would have another 1,700 students that would be a charge of the BIA to educate.

Mr. EDWARDS. That is correct.

Senator DECONCINI. In your judgment, could those facilities now handle those students?

Mr. EDWARDS. No way, not unless they took the facilities we have.

Senator DECONCINI. And if they took the facilities you have, what is your operating budget?

Mr. EDWARDS. For this year it is $6,398,000.

Senator DECONCINI. So if they wanted to maintain the quality education that you are now providing, based on funding, they would have to spend $6 million plus if they took over your facilities?

Mr. EDWARDS. Right.

Senator DECONCINI. Thank you, Mr. Edwards. You make a very good point.

[The prepared statement of Mr. Edwards follows:]

PREPARED STATEMENT OF CLIFTON EDWARDS, SUPERINTENDENT, WHITERIVER DISTRICT SCHOOLS, FORT APACHE INDIAN RESERVATION

The loss of Impact Aid (874) would be a damaging blow to the Whiteriver Unified School District, Whiteriver, Arizona. The truth of the matter is that we would probably have to close the school. I will give you facts and figures.

Starting with fiscal year 1980, the cash balance (most of which is 874 plus interest on investments) and Impact Aid amounts to 39.74 percent of our total budget of $4,047,897, exclusive of Title I and Title IV. The amount of state aid was 46.98 percent. Personal property tax (No real estate tax) was 1.44 percent of the total budget or $58,089. This was at a tax rate of $3.79. Our assessed valuation was $1,532,691.

Fiscal year 1981. Again, the cash balance and Impact Aid amounts to 43.25 percent of the total budget of $5,605,033. The amount of state aid was 41.97 percent. Because of the cash balance, we were one of the few districts who had no tax rate, therefore, no tax money. Our assessed valuation for that year was $1,683,490.

Fiscal year 1982. The cash balance and Impact Aid amounts to 53.89 percent of the total budget of $6,389,385. The amount of state aid was 30.28 percent. The cash balance was $1,991,410, of this amount $338,737 was interest on investments earned by our county treasurer keeping invested all the money we didn't need, in short-term investments. Again, we have no tax rate and no tax money this year.

Now, you may ask, why so large a cash balance. That is a good question and here is the answer. The State of Arizona, in December 1979 and January, 1980 in a special session of the legislature, passed and it became a law, putting a revenue control limit on what the schools in the state could spend. Their brilliant reasoning was that we must equalize revenues of all schools. Therefore, when they placed Impact Aid within the Revenue Control Limit, it caused many of us to have large cash balances which we could not spend thus a cut in the educational programs in the schools on the reservations was and is necessary. The State of Arizona is now trying to make schools with Indian Impact Aid, count this against state aid. Mr. Stormer can elaborate more clearly on this.

We just completed a new $8,240,000 high school. It is beautiful and functional. As all of you are aware, the prices of utilities, supplies and transportation have all gone up and are still going up. How are we to operate if we lose the Impact Aid? Either to the state, as they are trying to do, or if the Federal Government cuts it out altogether. As you can see, we have no tax base from which to levy any taxes.

To the honorable committee, I want to give a sincere thanks for the opportunity to present the facts and figures relative to the Whiteriver School District. Thank you.

	Budget	Percent of budget
Revenues, 1979–80:		
Cash balance	$559,096	13.80
Local	[1] 465,000	11.49
County	14,000	.35
State	1,901,712	46.98
Federal	1,050,000	25.94
Per property tax	58,089	1.44
Total	4,047,897	100.00
Revenues, 1980–81:		
Cash balance	[2] 1,062,105	18.95
Local	[3] 530,489	9.46
County	297,992	5.32
State	2,352,334	41.97
Federal	1,362,113	24.30
Total	5,605,033	100.00
Revenues, 1981–82:		
Cash balance	[4] 1,991,410	31.12
Local	696,511	10.89
County	316,214	4.94
State	1,937,395	30.28
Federal	1,456,855	22.77
Total	6,398,385	100.00

[1] Includes $430,000 tuition. Assessed valuation, $1,532,691.
[2] Large percent is 874 that State would not permit us to spend.
[3] Includes $500,489 tuition and remainder is interest on investments. Assessed valuation, $1,683,490.
[4] This is 874 balance and interest it has drawn. ($338,737.)
[5] Includes $571,511 for tuition and $125,000 interest. (The $125,000 is a very conservative estimate.) Assessed valuation $1,657,061. In reality, Federal money (874), accounts for 53.89 percent of the 1981–82 revenues.

Senator DECONCINI. Gentlemen, please introduce yourselves.

STATEMENTS OF HARVEY McKERRY, CHAIRMAN, EDUCATION COMMITTEE OF NAVAJO TRIBAL COUNCIL, AND LAURENCE GISHEY, EXECUTIVE DIRECTOR, NAVAJO DIVISION OF EDUCATION, THE NAVAJO NATION

Mr. MCKERRY. Thank you, Mr. Chairman and members of the select committee. My name is Harvey McKerry. I am a member of the Navajo Tribal Counsel and serve as the chairman of its education committee. With me I have Mr. Laurence Gishey on my left.

Senator DECONCINI. Laurence who? What is the last name?

Mr. MCKERRY. Laurence Gishey, on my left.

Senator DECONCINI. Thank you.

Mr. MCKERRY. He is the executive director of the Navajo Tribes division on education.

I would like to say that I have a statement here which is kind of lengthy.

Senator DECONCINI. We will put the full statement in the record following the testimony.

Mr. MCKERRY. OK. We are very grateful, Senator DeConcini, for allowing us this opportunity to appear before you to talk a little bit about the concerns of the Navajo Tribe. We do have here a representative from the two school districts from the Navajo Nation, and also in this respect I have a resolution attached to my testimony from the Navajo Tribal Council, just like the Arizona Legislature's support.

The Navajo Tribal Council is very, very much concerned. We have deliberated this issue at one time, and the Tribal Council in its deliberation on impact aid programs and the construction, public school construction program. The members believe that impact aid is an important part of the trust responsibility of the Federal Government to Indian people.

In fact, the President's Commission on Impact Aid concluded that impact aid is the most significant thing that the U.S. Government is doing to meet its trust responsibility to Indian children in the public school system. So with that, I will include that in my testimony.

Senator DECONCINI. Thank you. Mr. McKerry, let me ask you this. To your knowledge, does the Navajo Tribal Council and the tribe have the monetary resources to pick up the loss of the impact aid that is anticipated in the 1983 budget?

Mr. MCKERRY. Well, probably a lot of people think that we have a lot of resources, but I would say no.

Senator DECONCINI. In fact, it is your judgment the money would not be supplanted from the tribe if this budget were adopted.

Mr. MCKERRY. No.

Senator DECONCINI. Can you tell us, or your colleague there, the policy of the BIA toward reservation schools, BIA schools, that is?

Mr. MCKERRY. The Bureau's policy?

Senator DECONCINI. Yes, closing them, or do they plan to close some?

Mr. MCKERRY. I have heard some rumors to this effect, but as of today I have not seen any development to that nature.

Senator DECONCINI. In your judgment, Mr. McKerry, would the quality of education suffer if this 1983 budget were done on impact aid?

Mr. MCKERRY. Very definitely. From the community which I represent, we send our children to the Chinle School District, and by my observation and the information that I get from the administrators there, this is definitely what would happen.

Senator DECONCINI. Thank you very much, Mr. McKerry.

How many students are involved in the Chinle—perhaps that is in the formal statement that you have submitted—how many students are involved there?

Mr. COLVIN. Somewhere in excess of 4,000. There are several BIA schools in the area. Several of them, as Mr. McKerry indicated, we have heard rumors they may be closing. They have not recently except that several years ago the Chinle Boarding School in the community of Chinle did close, and the school attendance population was transferred 14 miles north.

We understand that enrollment is decreasing. Those facilities may not be fully utilized, whereas ours are in reverse. They are overutilized.

Senator DECONCINI. So if your district had to close its schools, the children—well, there is no physical place to put them except in your schools?

Mr. COLVIN. That is basically the case.

Senator DECONCINI. The BIA would have to come in and operate some schools?

Mr. COLVIN. At 100 percent of the funding rather than the lower percent available through 874.

Senator DECONCINI. And that amounts to how much?

Mr. COLVIN. Our schools currently have a budget of about $12 million, and that of course does not pay the full cost that the Bureau would have to assume if it took over that education.

Senator DECONCINI. Mr. Paxton, are you still here?

Mr. PAXTON. Yes, sir.

Senator DECONCONI. Can you answer one question? Does the BIA have a plan on closing schools on the Navajo Reservation?

Mr. PAXTON. To the best of my knowledge they do not plan to do that in the near future.

Senator DECONCINI. Are they considering it?

Mr. PAXTON. We are reviewing this, and I am told the buildings are underutilized. We will always consider it if the need is there. I know of no plans to close them.

Senator DECONCINI. If the school district had to close its schools, such as the Chinle School District, has that ever occurred, to your knowledge?

Mr. PAXTON. Not on the Navajo land. It has happened in Kansas.

Senator DECONCINI. What happened? Did the BIA assume the education of the students?

Mr. PAXTON. Yes.

Senator DECONCINI. Did you use the facilities that the school district had before?

Mr. PAXTON. Yes, sir.

Senator DECONCINI. Obviously you had to pay the cost of that education.

Mr. PAXTON. They assumed the program through a 638 self-determination contract.

Senator DECONCINI. All right.

Mr. PAXTON. The BIA is not operating it directly.

Senator DECONCINI. Thank you.

Mr. PAXTON. Yes, sir.

Senator DECONCINI. Thank you, Mr. McKelly, your prepared statement will be entered in the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF HARVEY MCKERRY, CHAIRMAN, EDUCATION COMMITTEE OF THE NAVAJO TRIBAL COUNCIL, AND LAURENCE GISHEY, DIRECTOR, NAVAJO TRIBE DIVISION OF EDUCATION

Mr. Chairman and members of the Select Committee. I am grateful for the opportunity to appear before you again to talk to you about the concerns of the Navajo Tribe with funding for the federal Impact Aid program. I am particularly pleased that this committee has agreed to devote a special oversight session to this important issue.

Impact Aid funding is an important part of the public school budgets of the schools located on or near the Navajo Reservation. These school districts are very different from school districts in the more urbanized parts of the country. They are different from other rural school districts. Many of the districts are very large. There are school districts on or near the Navajo reservation covering areas of 2,000 square miles, 5,000 square miles, and one district has approximately 7,000 square miles within its boundaries. The roads serving these school districts are often of unimproved dirt. In bad weather these roads can be impassible. In good weather they wear out busses at an accelerated rate.

Many of these districts have little or no tax base. They are located substantially on federal trust land. Often the local utility company is the only meaningful source of property tax revenue. One small utility does not generate much tax income. As an additional consequence, these districts often have little or no bonding capacity. They have no means of funding school construction.

The school districts I am talking about cannot look to state funding as a solution to their funding needs. Where equalization formulas are well established by statute, they are based upon the understanding that local districts will contribute something to their cost of operation. It is naive to believe that the formula would remain intact if local Indian school districts had nothing to contribute. In addition, state equalization cannot always be counted on to meet the real costs of public schools. In the state of Arizona, for example, the state equalization formula does not make realistic apportionment for the cost of transportation over the dirt roads of the Navajo Reservation. One district had almost a $500,000 shortfall between what the state equalization formula estimated as transportation costs and the real costs to that district of getting children to school.

Indian school districts cannot effectively compete for funds and programs in state legislatures. In Arizona, for example, the entire Indian population of the state constitutes less than 5 percent of the total population. The largest part of the state's population is in Maricopa County, where the city of Phoenix is located. Phoenix and other urban areas such as Tucson truly dominate the state legislature. They are not knowledgeable about our needs or concerns. About a year ago, when the Window Rock school district went to the Arizona State Legislature for assistance because the Window Rock High School had burned down and the district had insufficient bonding capacity to fund a new school, the Legislature responded by passing a resolution requesting the Federal government to provide the funds to build the school because the Legislature did not believe that there was any state responsibility in this matter. In such a climate of opinion, it is totally unrealistic to believe that state government can be expected to pick up the slack for our Indian public schools if Impact Aid is substantially reduced.

We believe that Impact Aid is an important part of the trust responsibility of the federal government to Indian peoples. In fact the President's Commission on Impact Aid concluded that Impact Aid is the most significant thing that the United States government is doing to meet its trust responsibility to Indian children in the public school system. The special character of Indian land was estab-

lished as a part of the basic treaty agreements between the federal government and Indian tribes. Indians gave up claims to much larger areas in return for the assurance that their land would be secure and that they would have a special trust relationship with the federal government. Many treaties, such as that which the Navajo signed in 1868, specifically identify education as a part of the federal responsibility. The states and the local school districts in which Indian public schools are located also feel that there is a special federal responsibility to them, since the decisions which caused these areas to be so deficient in tax base were national decisions made at the federal level to implement federal policy.

I am including with my written testimony a computer printout which shows the amount of Impact Aid funding that was received by Indian school districts in Arizona, New Mexico and Utah in 1981. Analysis of the information contained in this printout will give you some idea of the magnitude of the role that Impact Aid plays in public school funding in the Navajo area and other locations with large amounts of Federal trust land. In Arizona, Impact Aid goes to 45 school districts because of their Indian student populations. These schools serve approximately 22,950 students; 32 of the 45 districts have 50 percent or more Indian students; 24 districts have 90 percent or more Indian students.

So far I have been speaking mostly about the funding for Impact Aid operations funds under P.L. 81–874. This is the basic source of funding that keeps these public schools open. There is another source of funding, however, which is necessary before the school doors open. This is funding for public school construction under P.L. 81–815. Public schools on our reservation are in terrible condition. I believe you will be shown a video tape of the public school at Chinle and photographs of the Window Rock High School. These buildings are grossly inadequate. Many are temporary buildings. They are unsafe, uneconomic. They leak. Highly impacted school districts such as these cannot look to their local tax base for construction funds. They cannot issue bonds.

The history of school construction under P.L. 81–874 is a history of preference for military areas over Indian areas. School districts impacted by Military bases have received the bulk of construction funds already expended. Indian school districts where the need is greater, have received less. Recently Indian districts began to receive more attention and we had hopes that our most pressing building needs could be met. It seems, however, that once Indian schools began to find their way to the top of the priority list for construction, school construction was moved to the bottom of the priority list for the administration. This year no funds are recommended for construction. Only administrative costs (presumably to close out existing efforts) are included in the budget. In addition, the construction program is recommended for relocation to the Bureau of Indian Affairs.

The Bureau of Indian Affairs has a conflict of interest in administering school construction funds for public schools. The Bureau has its own school system with its own construction needs. In addition, the experience of the public schools in our area with the BIA administration of the Johnson O'Malley program makes them very reluctant to see any other program upon which they depend administered by the BIA.

If no funding for school construction under P.L. 81–815 is appropriated as part of the 1983 budget, I hope you will make a serious commitment to plan for meeting the school construction needs of these Indian public school districts over the next few years. I also hope that you will finish the projects that have already been approved. Money from fiscal years 1981 and 1982 in many cases has not yet been released to fund construction of projects which have already obtained approval. It is very frustrating for these school districts to have worked so hard to obtain authorization to build their needed schools only to find the money suddenly unavailable.

I also hope you will bring about immediate congressional action on the 1982 Impact Aid allocation. Many of the schools in our area are operating on a deficit basis waiting for their allocation. They are very concerned that they may not receive it before the end of the school year. This can mean late salaries and unpaid bills. I would also encourage you to include in the allocation legislation some directive to the administration to get the money out to the recipients right away. Delays within the executive branch caused a two month delay in issuance of notices of allotment under the Johnson O'Malley program this year after the Interior Department appropriation bill was passed in December of 1981. This means that some schools will be receiving their Johnson O'Malley money near the end of the school year. It will create chaos for these schools if a similar delay occurs with Impact Aid funding.

In preparing this testimony, the Navajo Tribe Division of Education met with administrators from many of the public schools serving Navajo children. Representatives of some of these schools will be present to give you their testimony in person. Others are unable to be here because of the shortness of time or lack of funds. They have asked the Navajo Tribe to convey their concerns to you. That is what we have done in this testimony. Our children are our future. If they fail to receive the ducation they need because of a short-sighted approach to savings, we will pay the price financially and humanly for years to come.

RECOMMENDATIONS

1. Retain an adequate level of funding for Impact aid under P.L. 81–874 in the 1983 budget, keeping it at least at the 1982 level.
2. Immediately enact impact aid allocation legislation for fiscal year 1982 and include requirements that the administration promptly distribute the allocated funds.
3. Appropriate construction funds for Impact Aid construction under P.L. 81–815 and keep the program out of the Bureau of Indian Affairs.
4. Undertake a comprehensive planning effort for funding the construction of schools in highly impacted Indian public school districts. Particular emphasis should be placed on construction in the next few years.
5. Release P.L. 81–815 funds appropriated for 1981 and 1982 and require the completion of those projects which have already been approved for construction.

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BAFA INDIAN DISTRICTS FOR FY 81 01/19/82 PAGE 8

--- APPLICANT --- NO.	NAME	INDIAN-AGA	PCT.	INDIAN-PRO-ENT	INDIAN-PAYMENT	
ARIZONA						
0007	PARKER UNIFIED S D #27	683.89	83.0	866,525.81	.00	NOT FINAL
0203	INDIAN OASIS S D NO 40	714.03	100.0	1,567,293.46	1,567,293.46	
0204	WINDOW ROCK E S D NO 8	1,840.28	99.4	2,377,294.71	2,377,294.71	
0207	TUCSON UNIF S D NO 1	19.46	.3	24,326.39		
0211	PARKER UNIFIED S D #27	251.41	77.6	323,584.81	.00	NOT FINAL
0706	HOPI PUB S D NO 25	689.06	100.0	1,438,325.62	.00	NOT FINAL
0813	MCNARY E S D NO 23	70.84	100.0	157,365.05	1,438,325.62	
0902	WHITERIVER UNIF S D NO 20	1,332.71	100.0	1,579,875.97	157,365.05	
0906	HORSE MESA ACCOM S D NO 509	47.88	93.3	80,346.78	1,579,875.97	
1001	STANFIELD E S D NO 24	41.96	66.7	49,313.41	80,346.78	
1002	GANADO E S D NO 19	977.61	100.0	1,275,034.91	.00	NOT FINAL
1005	CHINLE CON S D NO 24	2,279.42	100.0	2,983,949.03	1,275,034.91	
1007	PUERCO E S D NO 14	451.71	100.0	603,511.21	2,983,949.03	
1008	CASA GRANDE U H S D	180.95	73.5	219,306.31	603,511.21	
1011	CASA GRANDE E S D NO 4	85.56	19.4	102,587.21	219,306.31	
1012	UNION E S D NO 62	53.57	100.0	64,100.61	.00	NOT FINAL
1013	YUMA E S D NO 5	283.16	93.3	340,578.37	64,100.61	
1015	NICE S D NO 26	938.94	100.0	1,196,814.77	340,578.37	
1022	BACATUN CON S D NO 18	741.93	100.0	997,560.64	1,196,814.77	
1025	FORT THOMAS UNIF S D NO 7	294.75	100.0	355,223.12	997,560.64	
1035	PEACH SPRINGS S D NO 8	118.17	100.0	244,764.93	355,223.12	
1038	SOMERTON S D NO 11	91.60	76.9	108,564.75	244,764.93	
1205	MANICOPA H S D NO 820	116.70	98.3	137,899.81	108,564.75	
1805	TOLLESON U H S D	22.18	24.4	25,186.65	137,899.81	
1903	WYHEME S D NO 28	58.26	41.5	69,206.32	25,186.65	
2203	BEAVER CREEK E S D NO 24	8.14	23.0	9,276.89	.00	NOT FINAL
2302	PAGE UNIF S D NO 8	791.51	53.5	1,700,707.27	9,276.89	
2701	VERDE S D NO 3	31.97	94.6	39,557.88	1,700,707.27	
2702	KAYENTA UNIF S D NO 27	1,673.81	100.0	3,557,064.02	39,557.88	
2703	HOLBROOK UNIF S D NO 5	428.41	74.9	508,542.59	3,557,064.02	
2704	FLAGSTAFF UNIF S D NO 1	386.42	48.5	442,469.64	508,542.59	
2706	TUBA CITY UNIF S D NO 15	3,277.71	100.0	4,256,756.43	442,469.64	
2710	GILA BEND UNIF S D NO 24	76.52	39.0	89,486.69	4,256,756.43	
2711	SUNNYSIDE UNIF S D NO 12	122.47	14.7	143,244.83	89,486.69	
2714	WINSLOW UNIF S D NO 1	76.30	29.2	88,221.19	143,244.83	
2715	FREDONIA-MOCCASIN UNIF S D NO 6	21.11	18.4	26,658.63	88,221.19	
2720	SNOW LOW S D NO 10	4.38	4.6	7,271.08	26,658.63	
2721	CUDLIDGE UNIF S D NO 21	221.30	59.7	258,379.77	7,271.08	
2722	SNOWFLAKE UNIF S D NO 5	7.73	5.4	8,809.62	258,379.77	
2801	MESA UNIF S D NO 4	527.59	25.0	665,925.34	8,809.62	
3101	BANQUITANAL HIGH S D	220.77	100.0	484,334.66	665,925.34	
3201	PUENCO H S D NO 17	220.84	100.0	304,337.71	484,334.66	
3202	WINDOW ROCK H S D NO 9	946.40	99.4	1,237,760.52	304,337.71	
					1,237,760.52	

--- APPLICANT --- NO.	NAME	INDIAN-ADA	PCT.	INDIAN-PRO-ENT	INDIAN-PAYMENT	
MONTANA						
3003	CULBERTSON E S D NO 17	25.79	90.6	41,951.96	.00	NOT FINAL
3004	CULBERTSON H S D NO 17	7.68	75.8	19,460.91	.00	NOT FINAL
0054	STATE-TOTALS	4,875.63		10,145,528.96	10,883,855.69	
NEBRASKA						
1001	WINNEBAGO S D	243.32	93.1	579,931.78	579,931.78	
1002	MACY S D NO 16	260.39	95.9	618,769.16	618,769.16	
1005	SANTEE S D	97.68	100.0	367,361.46	367,361.46	
1403	NIOBRARA S D NO 1-H	27.50	100.0	48,854.53	48,854.53	
1701	DECATUR PUB SCHS	4.78	14.4	14,052.33	14,052.33	
1702	WALTHILL S D NO 13	15.53	16.4	28,451.89	28,451.89	
0004	STATE-TOTALS	659.20		1,657,420.45	1,657,420.45	
NEVADA						
0701	CARSON CITY S D	74.80	34.6	91,105.05	91,105.05	
0702	CLARK CO S D	84.53	.7	98,427.39	.00	NOT FINAL
0703	MINERAL CO S D	101.13	12.1	116,810.23	116,810.23	
0704	CHURCHILL CO S D	92.42	13.2	108,614.03	108,614.03	
0735	WASHOE CO S D	233.96	21.3	277,594.58	277,594.58	
1001	LANDER CO S D	23.19	4.8	29,477.52	29,477.52	
1002	DOUGLAS CO S D	75.09	53.2	88,706.84	88,706.84	
1003	HUMBOLDT CO S D	163.01	46.2	199,191.20	199,191.20	
1005	ELKO CO S D	287.15	47.6	330,994.87	330,994.87	
1006	PERSHING CO S D	23.18	21.3	26,417.49	26,417.49	
1501	LYON CO S D	93.15	47.1	111,413.92	111,413.92	
1601	WHITE PINE CO S D	44.68	14.8	55,815.25	55,815.25	
0012	STATE-TOTALS	1,296.31		1,534,569.57	1,436,142.18	
NEW MEXICO						
0005	ALBUQUERQUE S D NO 12	248.59	2.6	300,684.32	300,684.32	
0010	POJOAQUE VALLEY SCHS	167.55	26.6	198,951.29	.00	NOT FINAL
0202	SANTA FE PUB SCHS	3.84	.3	4,376.32	.00	NOT FINAL
0203	ESPANOLA MUN S D NO 45	311.67	25.8	355,200.17	355,200.17	
0204	CLOUDCROFT MUN S D	1.79	4.4	4,319.33	4,319.33	
0401	TULAROSA MUN S D NO 4	436.68	41.7	531,826.12	531,826.12	
0402	FARMINGTON MUN S D NO 5	87.34	11.8	100,079.90	100,079.90	
0003	INDEP S D NO 22	4,340.03	94.4	5,019,694.41	5,019,694.41	

--- APPLICANT --- NO.	NAME	INDIAN-ADA	PCT.	INDIAN-PRO-ENT	INDIAN-PAYMENT	
NEW MEXICO						
0712	DULCE I S D NO 21	473.26	99.2	554,368.58	554,368.58	
0903	TAOS MUN S D NO 1	127.45	43.7	147,980.14	147,980.14	
0904	GRANTS MUN S D NO 3	829.51	95.9	949,650.76	.00	NOT FINAL
0907	PENASCO I S D NO 4	24.22	15.1	27,602.74	27,602.74	
1001	JEMEZ SPRINGS MUN SCHS	217.94	93.5	257,473.75	.00	NOT FINAL
1002	BUIDOSO MUN S D NO 3	133.75	78.4	157,257.06	157,257.06	
1004	LOS LUNAS MUN S D NO 1	211.55	46.4	248,888.56	248,888.56	
1005	GALLUP-MCKINLEY CO PUB SCHS	6,159.84	82.9	7,135,271.13	7,135,271.13	
1006	BLOOMFIELD MUN S D NO 6	490.86	62.5	587,384.86	587,384.86	
1008	BERNALILLO MUN S D	1,390.11	90.7	1,657,082.85	1,657,082.85	
1009	CUBA IND SCHS	435.37	98.7	511,049.42	511,049.42	
1015	MAGDALENA MUN S D NO 12	189.23	64.7	221,585.59	221,585.59	
1601	CHAMA VALLEY I S D NO 19	1.98	1.8	4,165.37	.00	NOT FINAL
1802	JEMEZ MOUNTAIN S D NO 53	9.23	21.7	19,519.13	.00	NOT FINAL
3201	ZUNI PUB S D	1,559.71	100.0	1,807,951.67	1,807,951.67	
0023	STATE-TOTALS	17,852.84		20,782,564.87	19,367,427.45	
NORTH CAROLINA						
0807	SWAIN CO BD OF ED	131.78	44.8	150,185.38	150,185.38	
1102	GRAHAM CO SCHS	104.31	52.9	125,597.10	125,597.10	
2102	JACKSON CO SCHS	140.82	51.4	206,074.67	206,074.67	
2706	CHEROKEE CO BD OF ED	38.47	27.5	43,843.01	43,843.01	
0804	STATE-TOTALS	455.38		525,700.16	525,700.16	
NORTH DAKOTA						
0401	NEW TOWN S D NO 1	227.88	67.2	262,870.82	262,870.82	
0801	MT PLEASANT S D NO 6	.93	1.5	1,589.84	1,589.84	
1003	MARSHALL S D NO 3	101.62	99.1	118,833.14	118,833.14	
1005	SOLEN S D NO 3	150.09	100.0	171,531.35	171,531.35	
1007	ST JOHN S D NO 3	59.68	46.9	68,015.35	68,015.35	
1102	GARRISON S D NO 51	5.69	24.0	6,484.78	6,484.78	
1107	FT TOTTEN S D NO 30	221.22	100.0	252,117.24	252,117.24	
1201	WARWICK S D NO 29	61.86	95.6	70,499.83	70,499.83	
1203	SELFRIDGE S D NO 8	11.46	19.0	14,057.92	14,057.92	
1403	DUNSEITH S D NO 1	205.11	91.0	237,119.24	237,119.24	
1417	FORT YATES S D NO 4	304.82	98.6	348,840.83	348,840.83	
1418	TWIN BUTTES S D NO 37	87.49	100.0	100,951.74	100,951.74	
1419	COUTURE S D NO 27	757.69	97.9	904,241.01	904,241.01	
1420	INGERRETSON S D NO 28	255.49	100.0	309,613.61	309,613.61	

--- APPLICANT --- NO.	NAME	INDIAN-ADA	PCT.	INDIAN-PRO-ENT	INDIAN-PAYMENT	
SOUTH DAKOTA						
1903	WAGNER COMM S D NO 11-0	150.06	66.3	202,176.00	202,176.00	
2001	ISABEL I S D NO 1	43.97	100.0	62,419.39	62,419.39	
2101	MUNEBTEEL I S D NO 113	42.91	100.0	69,226.03	69,226.03	
2201	KADOKA I S D NO 58	337.59	41.0	631,206.30	631,206.30	
2202	HYDE CO I S D NO 1	.93	4.9	1,554.19	1,554.19	
2203	WINNER I S D NO 110	108.02	86.0	150,006.56	150,006.56	
2204	LYMAN I S D NO 12	151.29	44.1	271,773.88	271,773.88	
2801	BENNETT CO S D NO 3-1	185.08	70.8	316,361.45	316,361.45	
3201	FAITH S D NO 46-2	5.46	60.0	9,162.62	.00	NOT FINAL
3202	DUPREE S D NO 64-2	120.55	90.3	217,889.31	217,889.31	
0030	STATE-TOTALS	6,233.16		11,642,995.12	11,633,832.90	
UTAH						
0001	TOOELE CO S D	22.63	.7	27,938.96	27,938.96	
0002	SAN JUAN S D	1,221.75	77.9	1,426,624.66	1,426,624.66	
0002	DUCHESNE CO S D	42.85	9.4	55,735.48	55,735.48	
0902	UINTAH CO S D	507.25	32.2	610,269.40	610,269.40	
1701	SEVIER CO S D	4.84	.7	4,608.26	.00	NOT FINAL
0005	STATE-TOTALS	1,798.52		2,125,172.76	2,120,968.90	
WASHINGTON						
0003	NORTH KITSAP S D NO 400	132.25	9.5	189,266.38	189,266.38	
0014	GRANDVIEW S D NO 116 200	.90	.2	1,117.60	1,117.60	
0018	YELM S D NO 2	28.77	12.7	35,726.89	.00	NOT FINAL
0029	GRANGER S D NO 204	77.43	48.2	97,281.27	97,281.27	
0037	TOPPENISH S D NO 202	170.30	48.2	215,269.29	215,269.29	
0047	NAPATO S D NO 207	430.16	61.8	548,688.02	548,688.02	
0057	AUBURN S D NO 408	199.56	23.4	261,068.03	261,068.03	
0062	BREWSTER S D NO 111-203J	9.39	14.4	11,660.33	.00	NOT FINAL
0203	LYLE S D NO 406	20.16	41.8	27,753.84	27,753.84	
0206	PUYALLUP S D NO 3	1.87	.2	2,322.13	.00	NOT FINAL
0209	QUINAULT S D NO 97	22.67	15.0	33,130.76	33,130.76	
0503	UNION GAP S D NO 2	11.54	27.0	15,429.15	15,429.15	
0702	GOLDENDALE S D NO 404	39.81	57.1	51,117.98	51,117.98	
0703	MOUNT PAPER S D NO 507	29.09	36.2	36,123.46	36,123.46	
0704	ICHELIUM S D NO 70	104.00	78.9	138,756.82	138,756.82	
0706	CAPE FLATTERY S D NO 401	243.71	77.7	337,199.96	337,199.96	
0806	CURLEW S D NO 50	6.50	4.0	8,071.58	8,071.58	
0904	NESPELEM S D NO 14	167.30	100.0	221,813.48	221,813.48	

CJN-23-81

Class "C" Resolution
No BIA Action Required

RESOLUTION OF THE
NAVAJO TRIBAL COUNCIL

Requesting Congress and the President of the United States to Authorize and Appropriate Sufficient Funding Levels for Fiscal Year 1982 and Subsequent Years 1983-85, Under P.L. 81-874, Impact Aid, and P.L. 81-815, Public School Construction Funds

WHEREAS:

1. The Navajo Tribal Council is the elected governing body of the Navajo Nation; and

2. Land held in trust by the federal government comprises of 99% of the total area served by the 27 Navajo Nation school districts and this situation seriously limits the ability of the districts to raise funds for public education through local property taxes; and

3. Recent Congressional and Administrative actions with regard to the House Education and Labor Reconciliation Bill proposed a zero level of funding for Impact Aid, P.L. 81-874, and School Construction, Maintenance and Operation, P.L. 81-815, for Fiscal Year 1982 and subsequent years; and

4. Any elimination of funding for school districts, serving children residing on Indian lands reduces the budgets of those school districts by as much as 45% of the total budget; and

5. School districts on Indian lands depend on money derived from P.L. 81-815, Section A (the law created to meet the federal obligation to Indian children) for school construction and operation; and

6. The proposed Bills, if passed, will result in four Navajo schools being unable to fully and adequately house their students next year.

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Tribal Council hereby respectfully requests the Congress and the President of the United States to restore fully entitlements under P.L. 81-874 and P.L. 81-815, Section 14 payments, because:

1. recipients of these sections have no alternative for raising revenues without a tax base;

2. the Congress and Executive Administration recognize the significance of the impact aid and school construction programs, as one of several means by which the United States can satisfy the treaty obligation to Indian tribes;

3. conservation of the educational potential of 43,500 Navajo students depends on the proper federal funding of impact aid and school construction programs.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 61 in favor and 0 opposed, this 18th day of June, 1981.

Chairman
Navajo Tribal Council

THE NAVAJO NATION

PETER MACDONALD
CHAIRMAN, NAVAJO TRIBAL COUNCIL

FRANK E. PAUL
VICE CHAIRMAN, NAVAJO TRIBAL COUNCIL

RESOLUTION OF THE
EDUCATION COMMITTEE OF THE
NAVAJO TRIBAL COUNCIL

REQUESTING CONGRESS AND THE UNITED STATES EDUCATION DEPARTMENT TO CONTINUE P.L. 81-874, IMPACT AID FUNDING.

WHEREAS:

1. The United States Education Department (Administration) did not include the P.L. 874 impact aid program in the 1982 Federal Budget, but is currently pending "separate legislative initiative".

2. The President's Impact Aid Commission Report points out the need to continue the P.L. 874 program, and reaffirms the basic intent of the law as "payment for a service" rather than construed as payment in lieu of taxes.

3. P.L. 874 is a block grant type program and needs such consideration by the Administration.

4. Over 27 Indian school districts will be forced to close down if the P.L. 874 funding continues to be left out of Administration budgeting process and left out of legislative initiatives.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tribal Government respectfully requests the Congress and the United States Education Department to develop legislative initiatives and administrative actions necessary to provide appropriate funding levels necessary for students in school districts throughout the nation.

2. Recommendations of the President's Impact Aid Commission Report be implemented, including reaffirming the basic intent of the P.L. 874 (NOT payment in lieu of taxes) for the following purpose:

> "Payment to local school districts, for children in that district, for a problem local in nature".

3. On behalf of the 27 school districts located on the Navajo Reservation located in the State of Arizona and New Mexico, the Navajo Tribal Government pleads with the Administration and the Congress to continue the P.L. 874 program urgently needed by payments for sections A, B, and other categories of children.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Education Committee of the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor and 0 opposed, this 26th day of February, 1981.

Harvey McKelvy, Chairman of the Education Committee, The Navajo Tribal Council

Senator DECONCINI. We did not have testimony from Mr. James Maza, the executive director of the Association of Federally Impacted Schools. Is Mr. Maza here?

[No response.]

Senator DECONCINI. His statement will be included in the record at this point.

[The statement follows:]

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF FEDERALLY IMPACTED SCHOOLS, SUBMITTED BY JAMES W. MAZA, COUNSEL

Mr. Chairman and Members of the Committee, the National Association of Federally Impacted Schools appreciates this opportunity to present to this Committee our concerns regarding the fiscal year 1983 budget submitted to Congress by the Reagan Administration. Specifically, our comments are directed to the impact aid program, which consists of P.L. 81-874 (school maintenance and operations assistance) and P.L. 81-815 (school construction assistance). My name is James W. Maza, Counsel to the Association and I am grateful for the privilege of appearing before this Committee.

The budget request for impact aid threatens the quality, if not existence, of many public schools serving Indian children. The budget recommends a reduction of 20 percent for Indian "A" category funding below fiscal year 1982 funding (which in turn, was 86 percent of fiscal year 1981 funding). For 815 construction assistance the budget recommends $0 for Indian school construction at a time when the national backlog for such projects now has reached $223,339,282.

In 1981, the impact aid program provided assistance to 689 public school districts serving approximately 98,000 Indian children. This financial assistance totaled approximately $143 million. Of the so-called "super A" school districts which receive special funding under P.L. 81-874, 84 percent are Indian public school districts.

In any discussion of the Federal impact aid program, one major fact underlies the entire analysis. That salient fact is that in many areas, without impact aid assistance many Indian children simply would not be educated. The impact aid program is an essential source of general revenue to schools serving Indian children and accordingly these public schools have no alternative funding sources. Most public schools serving Indian children have little or no tax base to raise property tax revenue. The various state governments are indifferent at best, or hostile at worse, to this fiscal problem. Most states have bluntly taken the position that the problem of obtaining sufficient resources was caused by Federal policy and therefore any help must come from the Federal government. Most of our school districts do not fit the normal pattern of school finance. There is no way for our schools to look to the Federal government as the minor participant in finance, to us the Federal government is the primary souce of funding.

Impact aid is consistent with proper concepts of locally controlled educational services and Indian self-determination. The fact that impact aid is non-categorical general aid gives the local boards of education the proper flexibility and control. American educational tradition prefers that the local people make the important educational decisions regarding their schools. The program also helps promote Indian self-determination since the Congress, in the Education Amendments of 1978, included significant mandates to assure that Indian parents and Indian tribes would have the opportunity to express their views on the school district policies as they affect Indian children. In addition, the law strengthened the requirement that local school districts provide equal access to educational programs for Indian children. Congress also passed provisions establishing a hearing process to resolve grievances brought by Indian parents or tribal representatives.

The cuts proposed by the Reagan administration for P.L. 81-874 will mean that school districts on Indian lands will have one of two choices, if this proposal is accepted by Congress. They will either have to reduce significantly basic educational services (for the second year in a row), or, if they have any tax base at all, raise their property taxes. The Committee, during its hearing today, will be provided with a number of examples that support this contention.

The budget proposal for school construction all but eliminates P.L. 81-815 by requesting only $3 million. In 1980, the Department of Education conducted a study of school buildings on Indian lands and reported to Congress that:

"50.8 to 100 percent of the projects awaiting funding under section 14 have fire hazardous conditions;

50.8 to 100 percent of the projects awaiting a section 14 grant have conditions hazardous to the safety or health of the children; and

68.3 to 100 percent of the projects on the section 14 priority list have substandard educational housing conditions."

This Committee is painfully aware of the problems facing Indian people. The Impact Aid program has been an appropriate vehicle for insuring the education of almost 100,000 Indian children in the public schools of this nation. It has been this Committee and the Congress as a whole that has repeatedly recognized that the continuation of Federal funds to local school districts serving Indian children is a financial, logical and legal imperative. Impact Aid for Indian public schools is the only choice that exists other than a major increase in BIA funded schools. Our schools are proud of the educational programs that they provide and believe that the children they educate will determine the future of Indian people.

We ask this Committee to reaffirm its commitment to quality education for Indian children and to insure that adequate funds are available to meet this important national goal.

Senator DECONCINI. Is there anything else to be added?

Very well. Thank you very much, ladies and gentlemen. We appreciate your testimony, and we regret the time problem here.

The hearing is adjourned.

[Whereupon, at 12:15 p.m., the hearing was adjourned.]

APPENDIX

Additional Material Submitted for the Record

[Mailgram]

Fort Belknap Community Council,
Harlem, Mont., March 9, 1982.

Senator John Melcher,
U.S. Senate, Russell Office Building,
Washington, D.C.

In reference to testimony to be submitted to Senate Select Committee on Indian Affairs for March 8, 1982, Fort Belknap Community Council Resolution No. 3882.

Whereas under the constitution and bylaws of the Fort Belknap Indian Community, the community council is charged with the duty of protecting the health, security and general welfare of the Fort Belknap Indian Community, and

Whereas President Reagan is proposing to eliminate impact date to school districts by fiscal year 1985, and

Whereas Federal Impact Date is money provided by the U.S. Congress to school districts in lieu of local property taxes to districts having a large number of children from Federal installations in a district such as military bases or Indian Reservations, and

Whereas the Reagan administration is proposing to eliminate a portion of impact date for children from fiscal year 1982 to fiscal year 1985 and

Whereas impact date budgets are as follows for school impacting the Fort Belknap Reservation:

Fiscal year 1981: Hays/Lodge Pole, 400,000; Harlem, 398,688; and Dodson, 70,000.

Fiscal year 1982: Hays/Lodge Pole, 336,000; Harlem, 300,000; and Dodson, 52,000.

Fiscal year 1983; Hays/Lodge Pole, 168,000; Harlem, 150,000, and Dodson, 41,000.

Fiscal year 1984: Hays/Lodge Pole, 100,000; Harlem, 75,000; and Dodson, 17,000.

Fiscal year 1985: Hays/Lodge Pole, 0; Harlem, 0; and Dodson 0.

Whereas if the impact date funds were eliminated for Indian schools on or adjacent to an Indian reservation the effects would be very devastating to Indian education throughout our country; now, therefore, be it

Resolved, That the Fort Belknap Community Council recommends to the U.S. Congress that impact date for Indian schools on or adjacent to an Indian reservation be fully funded for fiscal year 1982 and subsequent fiscal years; and be it further

Resolved, That the Fort Belknap Community Council recommends to the U.S. Congress that they uphold the Federal trust responsibility for Indian education now and in the future; be it further

Resolved, That the Fort Belknap Community Council recommends to the U.S. Congress that education funds for Indian education be maintained at the fiscal year 1981 level for fiscal year 1982 and subsequent fiscal years.

Sincerely attest,

Henry Brockie, Sr., *Chairman.*

[Mailgram]

Senator JOHN MELCHER,
U.S. Senate,
Washington, D.C.:

The purpose of this mailgram is to indicate our concern relative to reductions in impact aid Montana School Districts on Indian reservations have little if any taxable land since school funding in Montana is highly dependent on property tax there is no chance for these districts to make up for loss revenue funding for impact aid classification "A" is vital for our State Montana educators are also concerned regarding the transfer of impact aid funding authority to the Department of Treasury this seems to us as a move to further increase the necessary regulation in bureaucracy.

ED ARGENBRIGHT,
State Superintendent, Montana.

Submitted by

Rosemari Knoki, Director of Funded Programs
Ganado Public Schools District #19/20
Ganado, Arizona

Robert Ericson, Attorney
Arizona Indian Education Project
Phoenix, Arizona

Mr. Chairman and Members of the Committee:

The Ganado Public School District and the Arizona Indian Education Project, on behalf of Arizona public school districts located on Indian Reservations, appreciate this opportunity to present testimony to the Committee regarding The Federal Impact Aid Program.[1] This program is of vital concern to the educational future of approximately 171,264 Indian children, who attend the nation's public schools located on Indian lands.[2] This 31 year old Federal program authorized pursuant to Public Laws 81-815 and 81-874 provides construction and maintenance/operation reimbursement to school districts for federal land that generate no local property taxes.

School Construction

We would like to bring to the attention of the Subcommittee that impact aid is totally a Federal issue. Because Indian land-based public school districts encompass Federal reservation lands, the tax base is inadequate for the financial, and therefore educational, needs of the children. These public school districts, including Ganado Public School, cannot rely on the traditional method of property taxation to raise sufficient revenue to provide a quality education for their children. A direct consequence for Ganado and other Indian school districts is the pressing need for school facilities.

The national backlog for Section 14(a) and 14(b) has reached $223,339,282 (Exhibit A). Of this total, the Navajo Reservation backlog is $100,915,859. In contrast, the 1982 Third Continuing Resolution targets only $9.6 million and The 1983 President Request is $3 million for all sections of P.L. 81-815 including Section 14. These amounts would not be sufficient even to complete projects already in progress.

This presents the problem of less money without declaration by the administration that the need for the P.L. 81-815 program has diminished in proportion to the cuts. On the contrary numerous studies, including the administration's own study by the Division of Planning and Budgeting (prepared by Frances Michalkewicz) have documented countless times the unconscionable facility needs under section 14.[3]

In 1980, The Secretary of Education labeled Indian public schools as a "national disgrace" because of their unsafe, unsanitary,[4] and substandard facilities. The Department of Education's Michalkewicz study noted that:

- "50.8% to 100% of the projects awaiting funding under section 14 have fire hazardous conditions;
- 50.8% to 100% of the projects awaiting a section 14 grant have conditions hazardous to the safety or health of the children; and
- 68.3% to 100% of the projects on the section 14 priority list have substandard educational housing conditions."

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[1] Ganado Elementary District No. 19, Ganado High School District No. 20, Puerco Elementary District No. 18, Window Rock Unified District, Kayenta Unitified District, Tuba City Unified, Chinle Unified (Navajo Reservation); Baboquivari High School District, Indian Oasis Elementary District (Papago Reservation); Sacaton Elementary District (Gila River Reservation); Whiteriver Unified District (White Mountain Apache Reservation); Rice Elementary District (San Carlos Apache Reservation).

[2] 1979 BIA Statistics

[3,4,7] Michalkewicz, Frances, etal. Condition, Safety, and Adequacy of Schools Spring Children who reside on Indian Lands, A Survey of LEA's Applying for School Construction Assistances Under Sections 14 of Public Law 81-815, Division of Planning and Budgeting Office of Education, September 1979.

Another study reports that Indian public school districts "have had to make extensive use of temporary school facilities," Exhibit B.[5] These temporary facilities are widely scattered, too small, lack equipment, improperly located, substandard, cause increased utility costs, and have heating and cooling problems causing cancellation of classes. Doubling the use of the few permanent classrooms cause greater wear and tear even with regular maintenance programs. Teacher housing units are also temporary trailer and portable units. Since teachers cannot purchase homes and land on Indian reservations, they are forced into living in these substandard homes. As a result of these conditions teachers do not stay as long.[6]

Little or no modifications improving access for handicapped students exist. Where they do exist, "modifications were generally of a makeshift nature."[7]

North Central Accreditation facility reports of 19 States note that in Indian school districts many facilities are missing altogether and therefore no educational opportunities.[8]

We totally understand that this is an era of limits, however, a historical review of Federal funds reserved for section 14 of P.L. 81-815 and section 204, Title II of P.L. 93-638, clearly points out that Indian public school districts have been doing with less for over 31 years. Only since 1968, according to the Acting Construction Chief, has section 14 been "affiliated with Indian public school districts."[9] Exhibit'C', "Funds Reserved by P.L. 81-815", shows that section 14 had only $87,179,059 funds reserved between 1954-1975; whereas, the other section received over $800,000,000 for the same period. To our knowledge, section 204, Title II of P.L. 93-638 had reserved funds just once for a school in Montana. It cannot be overstated that the FY 83 recommended level of $3 million for the entire P.L. 81-815 program and 3-0- for Section 204, would only continue to hamper the ability of Indian school districts, including Ganado Public Schools, to accomplish local educational objectives.

We implore the Committee to request the Appropriations Committee and its Subcommittees to issue full education bills for fiscal years 1983 and 1984 including the following recommended levels:

School Assistance in Federally Affected Areas (Impact Aid) Construction (Section 14) P.L. 81-815 - RECOMMENDED LEVELS			
	FY82 Budget Request	FY83 Budget Request	FY84 Budget Request
	(Funds Reserve in Thousands)		
Labor, HHS, Education Appropriations Subcommittee	NO Further RECISIONS	$64,000	$50,000
Interior and Related Agencies Appropriations Subcommittee	$14,000	$50,000	$40,000

5 A Study of Selected Public Schools On and Off Indian Reservations in Arizona, Arizona Department of Education, Phoenix, AZ, January 1976.

6 Resta, Paul E. (Dr.) and Dr. Donald E. Kelly, Navajo Educational Facilities Planning Study, University of New Mexico, Albuquer, NM, April 1980.

8 North Central Accreditation Reports (19 States), Dr. Howard W. Leigh, State Director (AZ) and Dr. George Stoumbis, State Director (NM), February 1982.

9 Teleconference, February 8, 1982 with University of New Mexico, Ganado Public, and Laurel Cornish.

The State Legislatures of Arizona, Nebraska, and Montana, Exhibit D, join us in urging this Committee to provide full appropriations for P.L. 81-815, Section 14. Others requesting adequate support for school construction on Indian lands including supplemental appropriations under the statutory provisions of section 204, Title II of P.L. 93-638 are (Exhibit D and E):

-The National Congress of American Indians
-The National Indian Education Association
-The Navajo Tribal Council, Window Rock, AZ
-The Omaha Tribal Council of Nebraska
-The Apache Tribes of Arizona
-The Papago Tribes of Arizona

We further recommend that the Committee prohibit Senior administrative staff (Departments of Education and Interior) from further administrative actions disallowing expenditures that are appropriated by the Congress of the United States. We ask this Committee to request a national study of the P.L. 81-815, Section 14, for long term impact; that this study be conducted by the National Institute of Education, Mr. Larry Uzzell, (Executive Director) who indicaced a strong interest, and be financially supported by unsolicited grants as research urgently needed. We further request the Committee to actively support the renewal of the "Advisory Panel on Financing Elementary and Secondary Education" as advisers to the United States Congress, with requirements that at least two sites be Indian public school districts located on Federal reservation lands (one in the southwest) and contain school facilities studies.

This construction program for Indian students cannot be excluded nor should the Federal responsibility to Indian students at the national level be excluded in the midst of governmental redefinition. Treaty responsibilities to Indian tribes, where they exist, if abandoned now will only come back later unless tended to now. Section 14 of the School Construction Program, P.L. 81-815, must be safeguarded so that Indian students can become "independent and develop a sense of community." For this reason, we respectfully ask this Committee to request the Budget Committees and its Budget Subcommittee to freeze domestic spending and limit defense increases as favored by Senators Baker (Tenn.), Stevens (Alaska), Hollings (S.C.) and the National Governors Association. We ask this because the severity and speed of the cuts in impact aid has allowed no time for our States or Tribal governments to look for revenue alternatives.

We plead with the Committee to support the Governors of our nation by placing a two-year moratorium on Senate Bill 1821 until the American peoples' voices have been heard along side cabinent level voices, with regard to the "minimal Federal role in education."[10] We, like our Honorable President, believe that "the American people are committed to excellence in education and that they are aware that the best answers to educational concerns do not always originate in Washington." We, like our Governors, are concerned "that a well educated and highly trained work force are essential to our national security."[11] For their expression of caution on dismantling the Department of Education, we remain indebted to the following leaders: Senators Baker (Tenn.), Roth (Del.), Domenici (NM), Stafford (VT); Representatives Brooks (TX), Perkins (KY), Jones (Okla.). In the event that the Department of Education is dissolved, we recommend that section 14 of P.L. 81-815 be transferred to the new Education Assistance Agency or the Department of Treasury not the Department of Interior.

Maintenance & Operation

It is important to understand that Impact Aid, constitutes a needed safety net for many school districts, especially those educating students on the Nation's Indian reservations. Public school districts with predominantly Indian enrollments stand to lose considerable funding for Indian students in any event, and major cuts in P.L. 81-874 will seriously jeopardize the financial viability of these districts.

10 President Reagan

11 Snelling, Richard, President, The National Governors Association, Letter to the White House.

Traditionally, two types of federally affected public school districts - those which educate Indian students and military dependents - have had relief most heavily on Impact Aid. In the past Indian public school districts have relief on the political strength of other districts to keep Impact Aid alive, and in so doing they have run the risk that they would share in the consequences should Congress find weaknesses in the program as a whole.

We cannot candidly represent to the Committee that Impact Aid is a perfect program, and many of the recent attacks on Impact Aid have pointed out problems. These problems usually center around "B" students, those students whose parents, while connected with the federal government, do not live on federal land. The parents of "B" students may thus contribute to a school district's tax base through ownership taxable personal and real property, and the presence of these students may not necessarily affect a district in any greater degree than if they were not federally-connected at all.

Indian students living on reservation land, however, are defined as "A" students under the Impact Aid program. Indian students' residence on Indian land creates many of the same problems that military dependents living on bases create for military impacted public schools. First, the Soldiers and Sailors Relief Act removes income tax and personal property tax as available local revenue for military impacted districts, because the Act allows servicemen to claim their home states as their legal residences. Federal caselaw similarly exempts Indian income and property from local taxation.[12] Second, states cannot charge sales taxes on purchases made by military personnel in business establishments on military bases. Indian purchases at federally regulated business establishments on reservations are similarly exempt from sales taxes.[13]

Although they share many of the tax base problems faced by military districts, reservation districts face costs beyond those incurred by the military districts. Indian reservations, sadly, are among the most economically deprived and undeveloped areas in this country. While tribes strive to improve their economics, the simple fact is that goods and services are not yet readily available and school districts must pay the higher costs incident to ordering supplies and services from distant markets. Many maintenance services, readily available in urban centers, must be provided by reservation districts themselves at great cost. Housing on most reservations is both inadequate and scarce, so reservation districts bear the cost of building and maintaining housing for many of their teachers and administrators. Transporting students to school, often for great distances on unimproved roads, constitutes a major cost factor for both maintenance and operation in reservation schools. On top of these costs, reservation schools educate children who come to school not only unable to speak English but also having less than a rudimentary understanding of the non-Indian culture they are about to enter as an all but inescapable consequence of embarking on a public school education.

Facing these built-in costs of education, reservation districts have yet another problem rarely uncountered by military districts. While a district serving a military base has other property within the district that is not tax-exempt, many reservation districts have as few as one or two taxpayers accounting for their assessed valuation. Furthermore, where military bases tend to increase property values around the base, the land around reservations is among the least desirable residential and commercial property in the country.

Given the backdrop of limited tax base and high costs, reservation districts' reliance on Impact Aid is understandable, but the level of reliance is nonetheless staggering. Overall, Impact Aid provides an average of 11% of the basic budgets the 722 public schools serving reservation students in these districts. In 128 of these districts, Impact Aid provides 20-49% of the basic budget. For 26 of the districts, most located in Arizona, New Mexico and South Dakota, Impact Aid provides 50% or more of the basic budget revenues.

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[12] McClanahan v. Arizona State Tax Comm'n, 411 U.S. 164 (1973); Moe v. Confederated Salish and Kootcnai Tribes, 424 U.S. 463 (1976).

[13] Warren Trading Post vs. Arizona Tax Comm'n, 380 U.S. 685 (1965).

The heavily impacted Indian districts, those with 20% or more eligible "A" students comprise the functional core of Indian public education in this country; "A" students were 20%-49% of the total enrollment in 122 of the districts serving Indian students, and they were 50% or more of the total enrollment in 105 of these districts.

The loss of, or severe reduction in, "A" student funding under the Impact Aid program would sound the death knell for Indian public education in the United States. In Arizona, for example, if reservation districts had to rely on the combination of state foundation assistance and local taxes they would face unconscionable student/teacher ratios and severe reduction in educational programs, if not being forced to close altogether. Taxpayers would face confiscatory tax rates where not limited by state law. Where limited, local taxes would not generate sufficient revenue to keep the schools open.

In short, federal Impact Aid is not merely just another program on Indian education - it is Indian public education. It forms the financial basis for public school survival on Indian reservations. If Indian students are to share in the rich tradition of public education in the United States, continued funding for "A" students under the program is essential.

We would appreciate any assistance that your Committee can provide us and would be glad to submit any additional information concerning these construction and maintance/operation needs. We believe our commitment to provide minimal school facilities and a quality education for our children can pass the test of budget austerity.

APPENDIX A

U. S. DEPARTMENT OF EDUCATION
Office of Elementary and Secondary Education
Division of Impact Aid - School Construction Branch
Washington, D.C. 20202-6272

ORDER OF PRIORITY INDICES AND ESTIMATED FUNDS NEEDED

FY 1982

Public Law 81-815 -- Sections 14(a) and 14(b)

Application Number	Applicant	Priority Tent.	Priority Firm.	Applicant's Initial Estimate
MT-81-C-5001	Frazer High School District #28	173.6		$ 4,986,170
*ME-81-C-2903	Indian Island Sch. Community.	150.1*		3,013,125*
AZ-81-C-2901	Window Rock High School District	129.4		15,400,000
MT-81-C-17	Frazer Elem. Sch. District #2	127.7		1,360,450
*ME-81-C-2902	Pleasant Point Sch. Comm.	126.0*		973,000*
*ME-81-C-2901	Indian Twp. Sch. Comm.	102.3*		926,250*
AZ-82-C-3001	Ganado H. S. Dist. #20	100.0		14,883,360
AZ-76-C-607	Kayenta E. S. D. #27	96.0		5,240,000
AZ-80-C-702	Tuba City Unif. S.D. #15	92.8		2,500,000
AZ-76-C-516	Window Rock Elem. S. D. #8		88.5	15,232,000
WA-78-C-602	Wellpinit S. D. #49	87.2		3,000,000
WA-80-C-511	Keller S. D. #3	85.2		1,077,909
AZ-76-C-1001	Ganado Elem. S. D. #19		82.4	6,890,000
AZ-74-C-517	Indian Oasis S. D.		80.3	5,748,749
AK-75-C-5002	Craig City S. D.	79.2		1,850,000
MN-75-C-403	I. S. D. #707, Nett Lake	78.9		1,026,000
SD-81-C-1301	Waubay I. S. D.	73.2		4,691,600

*Pending determination of LEA status

Application Number	Applicant	Priority Tent.	Priority Firm	Initial Estimat
NM-77-C-411	Tularosa Mun. S. D. #4	63.0		$ 3,000,000
NM-78-C-802	Magdalena Mun. S.D. #12	62.9		500,000
OK-80-C-2301	North Rock Creek D-10 S.D.	64.1		133,000
AK-76-C-1102	Hydaburg Pub. Schs.	62.2		8,685,868
NM-79-C-402	Gallup-McKinley Co. S. D. (Crown Pt. Waiver)	62.2		18,330,000
AZ-71-C-803	Union E.S.D. #62		61.6	117,000
NM-81-C-2901	Zuni Pub. S.D.	60.6		2,500,000
NM-76-C-4	Espanola Mun. S.D. (San Juan Waiver Area)	59.6		882,000
MT-79-C-13	S.D. #6, Lame Deer	59.0		10,430,130
NM-77-C-512	Jemez Springs Mun. S.D.	56.0		1, 600,000
OK-75-C-5002	Oaks Mission S.D.	55.7		200,000
SD-79-C-3001	West River I.S.D. #18 (W)		55.6	400,000
MT-78-C-8	E.S.D. #12, Harlem	54.0		900,000
MT-76-C-14	E.S.D. #9, Browning	53.5		7,753,480
AZ-78-C-30	Holbrook S.D. #3	53.2		3,668,197
SD-81-C-507	White River I.S.D. #29	52.6		1,300,000
NM-77-C-406	Grants Mun. S.D. #3 (W)	52.4		2,832,500
MT-76-C-3001	E.S.D. #28, St. Ignatius		52.1	1,139,377
MT-75-C-410	E.S.D. #17-H, Hardin		51.4	1,680,000
AK-73-C-5003	Dillingham City S.D.	50.8		2,500,000
AZ-73-C-14	Northern Yuma Co. U.H.S.D.		45.9	415,600
SD-71-C-502	East Charles Mix S.D. #102		45.8	1,000,000
AZ-81-C-1102	Rice S.D. #20	45.6		2,500,000

Application Number	Applicant	Priority Cont.	Priority Firm	Initial Estimat
OK-76-C-437	Salina S.D.	42.9		$ 330,000
AZ-77-C-23	Puerco U.S.D. #18		40.9	10,000,000
MT-78-C-1301	H.S.D. #2, Harlem		40.7	900,000
OK-75-C-3001	Pleasant Grove I.S.D. #5		37.4	109,338
UT-76-C-401	Uintah S.D. Vernal	37.0		916,000
NM-79-C-401	I.S.D. #22, Kirtland	33.7		10,000,000
CA-80-C-9001	South Fork Union S.D.	30.6		650,000
WA-71-C-25	Clallam Co. S.D.		32.2	667,703
OK-75-C-601	Little Axe S.D.	30.3		130,000
ID-77-C-1202	Western Benewah S.D.#42	29.8		90,000
MT-82-C-7	Ronan S.D. #30	29.2		1,385,800
NM-77-C-407	Bernalillo Bd. of Ed.	27.1		1,480,000
NM-75-C-412	Bloomfield Mun. S.D.	26.2		272,000
SD-76-C-6001	Lyman Co. S.D. #12		22.6	950,000
NM-76-C-603	Los Lunas Cons. S.D.	22.2		475,000
KS-78-C-1802	U.S.D. #3, Mayetta	22.0		3,7 11,500
MT-76-C-7	E.S.D. #30, Ronan		20.0	1,300,000
OK-76-C-1103	Pocola S.D.	19.7		365,750
MN-75-C-5001	I.S.D. #435, Waubun	18.1		30,000
WA-77-C-32	Granger S.D. #204	17.0		412,500
SD-81-C-2901	Winner S.D. #59-2	16.5		987,000
OK-76-C-911	Checotah I.S.D. #19	16.2		300,200
MI-75-C-5001	Bark River-Harris S.D.	15.9		250,000
AZ-74-C-702	Tuba City H.S.D.		15.8	1,168,000
NC-79-C-9301	Graham Co. Sch. Bc.	15.0		5,750,000
IA-69-C-1701	C.S.D., S. Tama Co.		13.8	219,800
WA-71-C-44	Wapato S.D. #207		13.5	456,750

Application Number	Applicant	Priority Tent.	Priority Firm	Initial Estimate
OR-76-C-13	Jefferson Co. S.D.	13.1		281,000
AZ-77-C-501	Laveen S.D.		12.2	2,000,000
NM-75-C-9	Rejoaque Valley I.S.D.	12.1		434,653
CA-71-C-619	Bishop Union S.D.		12.0	102,690
OK-76-C-3001	Falls S.D. #31	11.1		260,000
AZ-72-C-414	Tuba City E.S.D.		10.8	1,638,750
NM-75-C-602	Toas Mun. S.D.#1	9.8		1,038,300
NM-77-C-402	Gallup-McKinley Co. S.D. (Tse Bonito Waiver Area)	8.0		1,460,000
CA-79-C-516	Alpine Union S.D.	3.2		330,000
OK-76-C-6003	Broken Bow S.D.	2.7		420,000
ID-73-C-5	Blackfoot S.D. #55		1.4	630,000

Application Number	Applicant	Priority Tent.	Priority Firm	Initial Estimate
SUBPRIORITY ORDER OF ZERO PRIORITY APPLICATIONS - ( ) DENOTES SUBPRIORITY				
AK-78-C-6001	North Slope Borough S.D. (Atkasook Waiver Area)	(00.0)		3,150,000
AK-78-C-6001	N. Slope Borough S.D. (Kaktovik Waiver Area)	(00.0)		183,575
AK-78-C-6001	North Slope Borough S.D. (Wainwright Waiver Area)	(00.0)		183,575
WA-75-C-67	LaConner S.D. #311	(75.7)		523,000
WY-69-C-403	Mill Creek S.D. #14	(73.5)		62,000
WA-76-C-1902	Mt. Adams S.D. #209		(53.2)	450,000
NV-69-C-701	Elko Co. S.D.		(43.7)	107,000
WA-77-C-25	Cape Flattery S.D. #401	(29.9)		1,181,330
NM-75-C-313	Cuba I.S.D.	(28.8)		1,000,000
SD-76-C-701	McLaughlin I.S.D. #21	(25.8)		223,630
ND-76-C-503	New Town S.D. #1		(22.4)	163,761
WA-82-C-3001	Wilbur S.D. #200	(15 4)		1,526,400
AZ-77-C-604	Gila Bend U.S.D.	(16.5)		750,000
MT-73-C-3002	H.S.D. #28, St. Ignatius		(13.8)	592,240
MI-73-C-2001	Watersmeet Twp. S.D.	(13.6)		122,500
AK-76-C-1601	Yakutat City S.D.		(7.7)	1,250,000
CA-79-C-1301	Eastern Sierra U.S.D.	(3.7)		1,300,000
WA-70-C-56	Marysville S.D.		(2.8)	286,900
CA-71-C-530	San Pasqual Valley U.S.D.		(0.6)	200,000
NV-69-C-404	Humboldt Co. S.D.		(0.1)	231,000
ID-79-C-815	Clark County S.D. #161	INEL.		
TX-81-C-52	Southside I.S.D.	INEL.		

EXHIBIT B

Table 18
(page 1)

CLASSROOMS—PERMANENT AND RELOCATABLE

	Total Classrooms	Permanent Number	Permanent %	Relocatable Number	Relocatable %
APACHE COUNTY					
Window Rock District—Total	123	92	75	31	25
Window Rock Elementary	34	14	41	20	59
Ft. Defiance Elem. & Jr. High	51	45	88	6	12
Window Rock High	38	33	87	5	13
Ganado District—Total	96	46	48	50	52
Ganado Elementary	49	17	35	32	65
Ganado Junior High	16	14	88	2	12
Ganado High	31	15	48	16	52
Chinle District—Total	186	77	41	109	56
Chinle Elementary	41	18	44	23	56
Round Rock Elementary	10	5	50	5	50
Many Farms Elementary	24	12	50	12	50
Chinle Junior High	31	17	55	14	45
Chinle High	49	14	29	35	71
Red Mesa Elementary	18	10	56	8	46
Red Mesa High	13	1	8	12	92
COCONINO COUNTY					
Tuba City District—Total	123	107	87	16	13
Tuba City Primary	29	29	100	–	–
Tuba City Intermediate	31	20	65	11	35
Tuba City Junior High	32	28	88	4	12
Tuba City High	31	30	97	1	3
GILA COUNTY					
Globe District—Total	125	119	95	6	5
Central	12	10	83	2	17
East Globe	27	23	85	4	15
Noftsger	9	9	100	–	–
Globe Middle	25	25	100	–	–
Globe High	52	52	100	–	–
NAVAJO COUNTY					
Holbrook District—Total	112	103	92	9	8
Sheldon	7	7	100	–	–
Hulet	15	15	100	–	–
Woodruff	1	1	100	–	–
Pittman	21	20	95	1	5
Holbrook Junior High	18	16	89	2	11
Holbrook High	50	44	88	6	12

Table 18
(page 2)

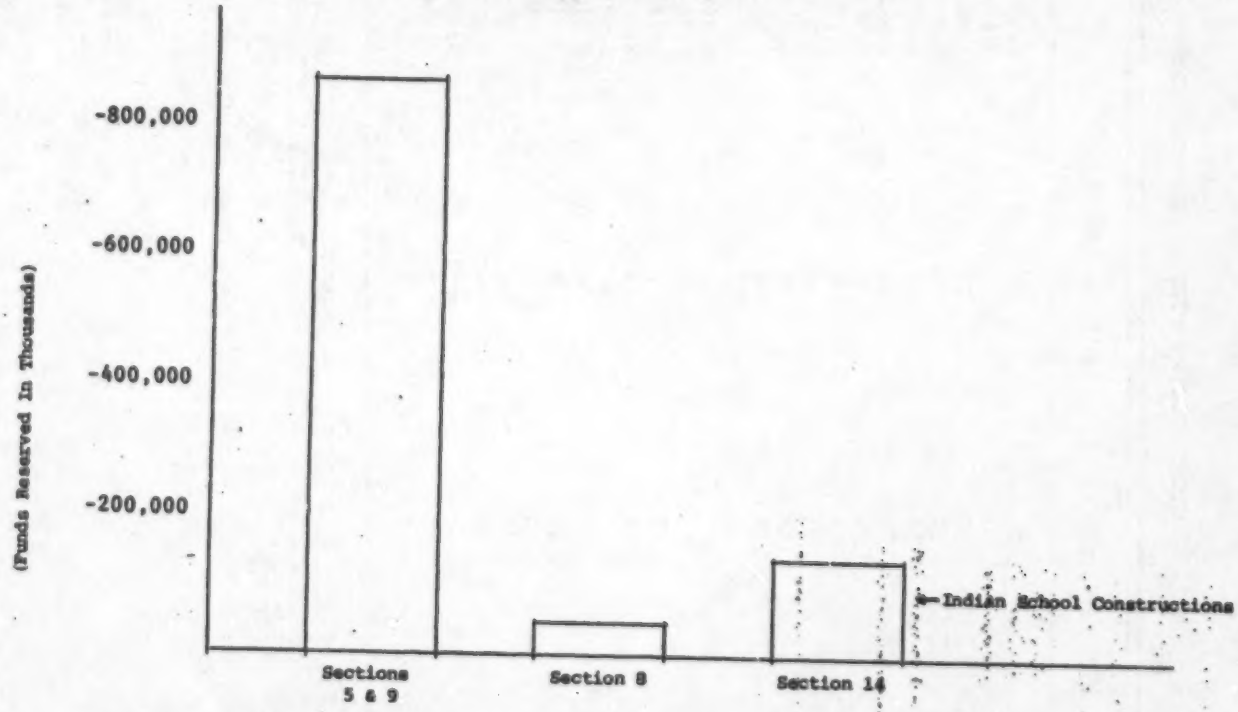
CLASSROOMS–PERMANENT AND RELOCATABLE

	Total Classrooms	Permanent Number	Permanent %	Relocatable Number	Relocatable %
NAVAJO COUNTY (Continued)					
Whiteriver District–Total	69	59	86	10	14
Whiteriver Elementary	24	21	88	3	13
Seven Mile	12	11	92	1	8
Whiteriver Junior High	10	4	40	6	60
Alchesay High	23	23	100	–	–
Kayenta District–Total	86	47	55	39	45
Kayenta Elementary	40	16	40	24	60
Kayenta Junior High	13	11	85	2	15
Monument Valley High	33	20	61	13	39
PIMA COUNTY					
Indian Oasis District–Total	61	40	64	21	36
Indian Oasis Elem. & Jr. High	22	16	73	6	27
Topawa	14	11	79	3	21
Baboquivari	25	13	52	12	48
Marana District–Total	138	124	90	14	10
Marana Elementary	39	39	100	–	–
Thornydale	20	9	45	11	55
Marana Junior High	36	33	8	3	92
Marana High	43	43	100	–	–
PINAL COUNTY					
Eloy District–Total	77	75	97	2	3
Curiel	26	26	100	–	–
Annex	4	4	100	–	–
Eloy Junior High	25	24	96	1	4
Central	22	21	95	1	5
Sacaton District–Total	40	25	63	15	37
Sacaton Elementary	40	25	63	15	37

Source: Data obtained from each District.

EXHIBIT C

Federal Funds Reserved by P.L. 81-815 Section 5, 8, 9, and 14
for Local Education Agencies for Construction of
School Facilities: FY 1954-75



SOURCE: U.S. Department of Education Annual Reports P.L. 81-815 and Teleconference Laurel Cornish, Acting Construction Chief, D.E.

TABLE 1

SECTION 14 PROJECTS FILED, PROJECTS AND FUNDS RESERVED

FISCAL YEAR	PROJECTS FILED	PROJECTS RESERVED	FUNDS RESERVED
1954	71	39	$ 8,230,787
1955	62	32	7,872,113
1956	93	68	4,506,759
1957	51	15	3,703,622
1958	39	21	6,037,818
1959	38	25	3,685,641
1960	32	11	3,569,820
1961	24	6	1,678,890
1962	38	10	2,236,639
1963	13	11	1,819,933
1964	14	1	378,420
1965	12	14	3,373,480
1966	9	16	6,691,301
1967	2	2	1,782,15[illegible]
1968	6	2	1,055,998
1969	9	11	2,671,858
1970	—	—*	2,603,869
1971	23	4	4,346,095
1972	22	1	2,448,601
1973	6	1	930,000
1974	16	8	9,629,533
1975	61	—*	8,073,672
1976	28	—*	7,229,607
1977	10	5	7,066,503
1978	7	1	10,552,990

SOURCE: U.S. Office of Education, Administration of Public Laws 81-874 and 81-815, Twenty-Eighth Annual Report of the Commissioner of Education, p. 38 (Table E) (1978).

*Funds were sufficient to provide additional money for ongoing section 14 projects.

STATE OF ARIZONA

35th LEGISLATURE

2nd Regular Session

SENATE

S.J.R. 1001

Introduced

February 9, 1982

REFERENCE TITLE: impact aid to school districts

EXHIBIT D

Referred on February 10, 1982

Rules

Education

Introduced by Senators Hubbard, Gabaldon, Getzwiller, J. Gutierrez, Osborn

A JOINT RESOLUTION

URGING CONTINUED FUNDING OF IMPACT AID TO SCHOOL DISTRICTS ON INDIAN RESERVATIONS.

Whereas, the State of Arizona contains within its boundaries a significant amount of federal trust land on the several Indian reservations located within the state; and

Whereas, these lands are not available to the state or local school districts for the purpose of property taxes; and

Whereas, these trust lands are home for a large number of students, primarily Indian students, who receive their education in the public schools of the State of Arizona; and

Whereas, for many years, in recognition of its responsibility to provide for the education of Indian school children and in recognition of the financial hardship imposed on local school districts by the presence of a significant number of students who reside on federal trust land on Indian reservations the United States government has provided impact aid funds to those districts under Public Law 81-874, and school construction funds under Public Law 81-815. These funds have allowed the school districts affected to provide a free, public education to their students without placing an unreasonable burden on their few taxpayers or relying totally on state education funds; and

Whereas, the situation which originally gave rise to the need for federal impact aid funds is not a passing one, but arises out of the fundamental nature of federal trust lands on Indian reservations and the constitutional prohibition of state taxation of these lands. Nonetheless, the United States government, through the budget recommendations of the office of management and budget and the actions of congressional committees is contemplating the elimination or severe reduction of federal impact aid funds over the next few years, without proposing any alternative

S.J.R. 1001

means of meeting the federal obligation to provide for the education of the Indian children in these schools or compensate the affected school districts for the federally-based impairment of their property tax base; and

Whereas, elimination of federal impact aid could result in the loss to the State of Arizona of in excess of twenty-five million dollars in education funds. It could cause the local school districts most affected to become totally incapable of supporting themselves, making them completely dependent on state revenues.

Therefore

Be it resolved by the Legislature of the State of Arizona:

1. That the State of Arizona is opposed to the elimination or significant reduction of federal funding for education in school districts with large numbers of Indian students residing on federal trust land.

2. That the State of Arizona considers the provision of adequate federal funding to these school districts to be an obligation of the government of the United States both to the Indian school children and to the school districts in which these federal trust lands are located.

3. That the State of Arizona strongly urges the President of the United States to restore an adequate level of funding to Public Law 81-874 and Public Law 81-815, and to recede from any plan to eliminate or significantly reduce funding under these laws. It is further recommended to the Congress of the United States that it include in its appropriations adequate funding for affected local school districts under these two laws.

4. That the Secretary of State of the State of Arizona transmit certified copies of this Resolution to the President of the United States, the Director of the Office of Management and Budget of the United States, the Chairmen of the United States Senate and House of Representatives Committees of Budget, Education and Labor and the Select Committee on Indian Affairs and to each Member of the Arizona Congressional Delegation.

STATE OF ARIZONA
35th LEGISLATURE
SECOND REGULAR SESSION

REFERENCE TITLE: impact aid to school districts

Referred on February 9, 1982

Rules

HOUSE

HM 2001
Introduced
February 9, 1982

Introduced by

Representative Peaches

A MEMORIAL

URGING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO CONTINUE FUNDING OF IMPACT AID TO SCHOOL DISTRICTS ON INDIAN RESERVATIONS.

To the President and Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, the State of Arizona contains within its boundaries a large amount of federal trust land on Indian and military reservations located within the state; and

Whereas, these lands are not available to the state or local school districts for the purpose of property taxes; and

Whereas, these lands held in trust for the Indian people and the military reservations are federal lands not subject to state jurisdiction and the children of people who work and live on these reservations receive their education in the public schools of the State of Arizona; and

Whereas, for many years, in recognition of its responsibility to provide for the education of school age children who live on federal lands and in recognition of the financial hardship imposed on local school districts by the presence of such federal trust lands, the United States government has provided impact aid funds to school districts under Public Law 81-874, and school construction funds under Public Law 81-815. These funds have enabled the school districts affected to provide a free public education for the students without placing an unreasonable burden on a few taxpayers or relying totally on state education funds; and

Whereas, the Office of Management and Budget and the appropriation committees of Congress are contemplating the elimination or severe reduction of federal impact aid funds without proposing any alternative means of meeting the federal obligation to provide for the education of the children in these schools or compensate the affected school districts for the federally-based impairment of their property tax base; and

Whereas, elimination of federal impact aid could result in the loss to the State of Arizona of in excess of twenty-five million dollars in education funds. It could cause the local school districts most affected to become totally incapable of supporting themselves, making them completely dependent on state revenues.

Wherefore your memorialist, the House of Representatives of the State of Arizona, prays:

1. That the President and Congress continue federal funding of Public Law 81-874 and Public Law 81-815 for school districts with large federal lands since the State of Arizona considers the provision of adequate funding to these school districts to be an obligation of the federal government and such funding should not be subject to reduction or transfer to the states.

2. That the Secretary of State of the State of Arizona transmit certified copies of this Resolution to the President of the United States, the Director of the Office of Management and Budget of the United States, the Chairmen of the United States Senate and House of Representatives Committees of Budget, Education and Labor and the Select Committee on Indian Affairs and to each Member of the Arizona Congressional Delegation.

RESOLUTION

LEGISLATIVE RESOLUTION 207.

Introduced by: Koch, 12th District; Vickers, 38th District; Warner, 25th District; Hoagland, 6th District; Lamb, 43rd District; Beutler, 28th District; Hefner, 19th District; Kremer, 34th District; Wiitala, 31st District; Goll, 16th District; Fenger, 45th District; Beyer, 3rd District.

WHEREAS, the federal government historically has recognized and accepted its responsibility for providing public educational opportunities for dependents of personnel in its uniformed services and for those American Indians residing on Indian reservations; and

WHEREAS, for more than one hundred years, this responsibility was met through various funding acts such as the Lanham Act for the military and the Bureau of Indian Affairs for Indians and since 1950 under P.L. 874, otherwise known as impact aid; and

WHEREAS, the State of Nebraska has entered into agreements with the federal government which have substantially limited the availability of revenue resources at the local level in school districts which are severely impacted by federal activity; and

WHEREAS, appropriations for impact aid for fiscal year 1982 have already been reduced by almost fifty per cent below fiscal year 1981 levels based on a continuing resolution which expires in March, 1982, and this has led to uncertainities in planning for the current year's operation due to a possible cut back of up to six million dollars; and

WHEREAS, highly impacted districts cannot possibly be expected, nor is it fiscally possible in such districts, to replace the lost funds through increases in local property taxes since the tax dollars needed could exceed the actual valuation of the taxable property; and

WHEREAS, the State of Nebraska collects sales and income taxes to support public elementary and secondary education through the foundation and equalization program under which the impacted school districts currently receive the highest aid per pupil in the state; and

WHEREAS, further reductions have been proposed for impact aid in the current year and for fiscal year 1983.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-SEVENTH LEGISLATURE, SECOND SESSION:

1. That the Legislature opposes cuts in impact aid which cannot be replaced by local property taxes.

2. That the Legislature opposes shifting a recognized federal responsibility to state and local government.

3. That the Legislature request the federal government, through its executive and legislative branches, to reaffirm through adequate budget recommendations and appropriations its obligation for the education of those students in public school districts which are highly impacted by its actions.

4. That the Clerk of the Legislature send copies of this resolution to the President, the Office of Management and Budget, and the Department of Education, for their consideration, and copies to Nebraska's Congressional delegation, and appropriate committees of the Congress for their information.

EXHIBIT E

RESOLUTION OF THE
NAVAJO TRIBAL COUNCIL
EDUCATION COMMITTEE

Requesting Congress and the President of the United States to Authorize and Appropriate Supplemental Funding under Section 204, Title II of P.L. 93-638

WHEREAS:

1. The Education Committee of the Navajo Tribal Council is authorized by the Navajo Tribal Council and has the responsibility for overseeing and protecting the educational rights and educational needs of Navajo school children in state-run public schools, as well as in BIA and contract schools; and

2. The Educa[illegible] Committee of the Navajo Tribal Council, by Resolution No. ECS-109-[illegible] and the Navajo Tribal Council, by Resolution No. CJN-23--81, have declared their support for the continued provision of federal funds for school construction, by supporting adequate federal funding for school construction in Indian school districts under Public Law 81-815; and

3. The Education Committee of the Navajo Tribal Council is extremely concerned that overall reductions in federal funding for education will have a drastic effect upon all schools serving Navajo students; and

4. All public schools serving Navajo students are forced to rely upon the federal government for substantial portions of their operating budgets; and

5. P.L. 81-815, which has been the major source of funding to assit these schools in building new facilities, is being recommended for so little funding as to eliminate new projects and may be totally phased out.

NOW THEREFORE BE IT RESOLVED THAT:

The Education Committee of the Navajo Tribal Council respectfully requests the Congress and the President of the United States to authorize and appropriate sufficient funds under Section 204 of Title II of the Indian Self Determination and Education Assistance Act, Public Law 93-638) to enable public schools serving Navajo students and other eligible public schools on Indian lands to provide adequate facilities for educational programs, because:

1. Most of these schools must rely at present upon many temporary facilities;

2. Their low-assessed valuation, due to federal lands, do no allow for adequate bonding capacity;

3. Many studies over recent years have labeled these schools as a "national disgrace" due to their poor facilities;

4. Since P.L. 93-638 was passed, an appropriation has been made under Section 204 of Title II only once.

C E R T I F I C A T I O N

I hereby certify that the foregoing resolution was duly considered by the Education Committee of the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor and 0 opposed, this 21st day of January, 1982.

Harvey McKenzy

7. IMPACT AID

The Impact Aid program (PL 81-874 as amended by PL 95-561) is designed to fund public schools educating Indian children who reside on non-taxable Indian lands. The proposed reduction in funding raises serious questions concerning the federal government's trust responsibility and seriously threatens the survival of 722 school districts currently relying on support under Impact Aid as a major portion of their operating budget each fiscal year. Financial assistant available for Indian education under Impact Aid must remain intact; further, Indian Tribes and Indian parents muct be involved in the decision-making about the use of Impact Aid at the local level as required by PL 95-561.

8. 815 SCHOOL CONSTRUCTION FUNDS

The proposed phase-out of PL 815 and reductions in BIA funding virtually eliminates any hope of contract, BIA or public schools being able to obtain federal assistance for construction of desperately needed facilities. These needs have been documented countless times in numerous studies, the most recent done by the US Department of Education in 1978. In 1980, the Secretary of Education labeled Indian schools a "national disgrace" because of their inadequate, unsafe, and substandard facilities.

The FY 83 budget MUST contain adequate provisions for continuing and increased support for school constructions on Indian lands. Oversight Hearings, reviewing the problems with existing funding processes and the lack of availability of 815 and BIA school construction monies at the local level must be held immediately, so the findings can be incorporated into the FY 83 budget and in appropriate rule-making.

SOURCE: National Congress of American Indians
Indian Education Convocation
Quality Inn-Capitol Hill, Washington, D.C.
January 26-29, 1982
Critical Issues in Indian Education

RESOLUTION OF THE
NAVAJO TRIBAL COUNCIL

Requesting Congress and the President of the United States to Authorize and Appropriate Sufficient Funding Levels for Fiscal Year 1982 and Subsequent Years 1983-85, Under P.L. 81-874, Impact Aid, and P.L. 81-815, Public School Construction Funds.

WHEREAS:

1. The Navajo Tribal Council is the elected governing body of the Navajo Nation; and

2. Land held in trust by the federal government comprises 99% of the total area served by the 27 Navajo Nation School Districts and this situation seriously limits the ability of the districts to raise funds for public education through local property taxes; and

3. Recent Congressional and Administrative actions with regard to the House Education and Labor Reconciliation Bill propose a zero level of funding for Impact Aid, P.L. 81-874, and School Construction, Maintenance and Operation, P.L. 81-815, for FY 1982 and subsequent years; and

4. Any elimination of funding for school districts, serving children residing on Indian Lands reduces the budgets of those school districts by as much as 45% of the total budget; and

5. School districts on Indian lands depend on money derived from P.L. 81-815, Section 14(the Law created to meet the federal obligation to Indian children) for school construction and operation; and

6. The proposed Bills, if passed, will result in four Navajo schools being unable to fully and adequately house their students next year.

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Tribal Council hereby respectfully requests the Congress and the President of the United States to restore fully entitlements under P.L. 874 Section A and P.L. 815 Section 14 payments, because:

1. recipients of these sections have no alternative for raising revenues without a tax base; and

2. the Congress and Executive Administration recognize the significance of the impact aid and school construction programs, as one of several means by which the United States can satisfy the treaty obligation to Indian Tribes; and

3. conservation of the educational potential of 42,500 Navajo students depends on the proper federal funding of impact aid and school construction programs.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 61 in favor and 0 opposed, this 18 day of June, 1981.

Peter MacDonald, Chairman
Navajo Tribal Council

2:00 PM 76 13-9

RESOLUTION OF THE
NATIONAL INDIAN EDUCATION ASSOCIATION

Directing the Assistant Secretary Responsible for the Bureau of Indian Affairs to Actively Pursue Funding to Bring All Bureau and Contract School Facilities into Compliance With Codes and Standards as Required Under P.L. 95-561 and for the Secretary of Education to Actively Pursue Funding Levels for Public School Construction (P.L. 81-815) Compatible with the Needs of Indian Student Enrollment

1. WHEREAS: Sec. 1122 of P.L. 95-561 requires the Secretary to establish national criteria for Bureau and contract school facilities and to submit a detailed plan to Congress during the annual budget request to bring all BIA and contract schools up to the criteria established, and

2. WHEREAS: Annual Bureau funding for new school construction and improvement and rennovation continues to be inadequate resulting in unrealistic priority lists causing delay and further deterioriation of Indian education facilities, and

3. WHEREAS: The community of Navajo, New Mexico, with the active support of the Navajo Tribe, launched a successful national effort to increase the level of the annual funding of public school construction for Indian students under P.L. 81-815, and

4. WHEREAS: The proposed funding for P.L. 81-815 for FY '82 is reduced to an even lower level than recent years ($17,6 million) and would be inadequate even to finish off projects already started in FY '81 ($26 million required), and

5. WHEREAS: The combined effect of unrealistic funding of construction and maintenance for Bureau, contract, and public school facilities results in a progressive deterioration of these facilities together with the obvious negative effects this has on the quality of Indian education.

NOW THEREFORE BE IT RESOLVED:

1. The National Indian Education Association directs the Secretary of Education and the Assistant Secretary for Indian Affairs to sponsor and coordinate a task force made up of Indian and key Congressional representatives to produce adequate Congressional appropriations over the next 5 years to bring Bureau, Contract, and Indian public school facilities up to standards as required by P.L. 96-561.

2. BE IT FURTHER RESOLVED that the recommendations of the combined BIA and U.S. Office of Education task force for bringing school facilities up to standards have the active involvement and support of the Indian Tribes, parents and schools boards.

RONNIE LUPE
CHAIRMAN

Executive Office of the Chairman

WHITE MOUNTAIN APACHE TRIBE

March 5, 1982

Dennis De Concini, Presiding Chairman
4104 Dirksen Senate Office Bldg
Washington, D.C. 20510

Re: Senate Select Committee

Dear Honorable DeConcini,

Attached is a substance which is a major concern in the area of education reference to Public Law 81-115 and Public Law 81-874.

The White Mountain Apache Tribe is opposed to any phase-out or elimination of federal impact aid funds for payment for 'A' students. Further, we are in support of the presentation by Mr. Clifford Edward, Superintendent of Unified School District in Whiteriver, Arizona.

Should you have any question, please call me at (602) 338-4371.

Sincerely,

WHITE MOUNTAIN APACHE TRIBE

Ronnie Lupe,
Chairman

xc: Mr. Adam Lupe - School Board
Mr. Wesley Bonito - Tribal Education
Clifford Edward, Supt. of School

SUBSTANCE

Impact aid is designed to fund public schools educating Indian students who reside on non-taxable Indian lands. The proposed reduction in funding seriously threatens the survival of school districts currently relying on support of the impact aid as a major supplement to the general budget of school districts with Indian or other federally - related populations. The state of Arizona has been held by the U.S. Department of Education to be ineligible at this time to treat federal impact aid funds as local school revenues and to use them to reduce the state's obligations under its equalization laws to provide equalization funds to the schools receiving impact aid funds.

These lands are not available to the state or local school district for the purpose of property tax. These lands are held in trust for the Indian people and are not subject to state jurisdiction. The children of people who work and live on these lands receive education in the public schools of the state. Public Law 81-115 and Public Law 81-874, designed to aid states which suffered from the federal impact of military bases within their borders and the educational burden that this created, were extended to Indian Reservations in 1958. Since there are no property tax revenues available, these funds have enabled the school district affected to provide a free public education for the students without placing an unreasonable burden on state education funds.

Let us remind ourselves of the past experience in the area of Education. The states have objected, in the school area as well as elsewhere, to the duty to provide service in the absence of the right to collect revenue. See Commissioner of Taxation V. Brun, 174 N.W. 2nd 120 (Minn. 1970). In Piper V. Big Pine School District, supra at p.674, the California Supreme Court dealt with this issue as follows:

"Respondents call our attention to the serious effect that the

issuance of the writ will have upon the respondent district. Big Pine School District is located in a sparsely settled portion of the state and contains a number of Indian children, who, it is fairly inferable, attend the Indian or federal school, either as a matter of choice or under the belief that they may not, as a matter of right, attend the district school. It appears from the papers in the case that children of nontax-paying Indians are, by government rule or upon other authority, eligible to attend the federal school, but Indian children whose parents are tax payers are not admitted into said school. The effect of this decision, it is suggested, will probably cause a greatly increased attendance of Indian children upon the district school who cannot be cared for because of the economic or administrative problem which it will create. No doubt it would add to the cost of the district should it be required to maintain a separate school for Indian children, but this is a consequence for which the courts are not responsible. The economic question is no doubt and important matter to the district, but it may very properly be addressed to the legislative department of the state government."

To date, the Federal Government has responded to this problem in various ways. With the passage of the 1934 Johnson O'Malley Act, the federal government agreed to provide subsidies to states which furnished educational facilities to Indian students. As we have mentioned, P.L. 81-115 and P.L. 81-874 were extended to Indian reservations in 1958. These Public Laws have accomplished alot in the area of education on Indian Reservations and should be considered for continuation and not eliminated or gradually phased out.

The elimination of federal impact aid could result in a loss to the state of Arizona in excess of twenty-five million dollars. It could cause the local school districts to become totally incapable of supporting themselves, making them completely dependent on state revenues. The Whiteriver School District would stand to lose $214,863.13 in revenues without any mechanism to replace those funds. This could result in a reduction of staff and of current

programs which are trying to meet the needs of the Indian community at the present time.

The Department of the Treasury has issued the following information:

A. Impact Aid: Payments for 'a' Students $345.0 in 1982
275.1 in 1982 -- a reduction of 69.9% (in thousand)

B. Impact Aid: Payments for 'b' Students $ 72.6 in 1982
0.0 in 1983 -- a reduction of 72.6% (in thousand)

Impact Aid has been transferred to the Treasury. The payments for 'A' students are proposed at roughly 86% of FY 82 payment levels. No payments for 'B' students are proposed. All of our Indian Students are in payment for 'A' students.

School Construction Funds P.L. 81-815

The proposed phase-out of P.L. 81-815 and the reduction in Bureau of Indian Affairs funding virtually eliminates any hope of contract, BIA or public schools being able to obtain federal assistance for construction of needed facilities. These needs have been documented countless times in numerous studies, the most recent done by the U.S. Department of Education in 1978. In 1980, the Secretary of Education labled Indian schools a "national disgrace" because of their inadequate, unsafe, and substandard facilities. The FY 83 budget contains adequate provisions for continuing and increasing support for school construction on Indian lands. Oversight Hearings, reviewing the problems with existing funding processes and the lack of availability of 815 and BIA school construction monies at the local level, should be held, so the findings can be incorporated into the FY 83 budget.

COUNCIL OFFICERS
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Reuben A. Snake, Jr.
VICE - CHAIRMAN
Virgil Free
SECRETARY
Neola F. Walker
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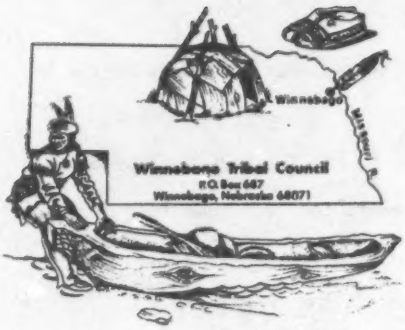

MEMBERS
Karl Baker
Gordon Beaver
Dorothy Holstein
Bette Scott
David L. Snow
EXECUTIVE DIRECTOR
Joseph F. Roche
402 - 878-2272

March 5, 1982

Senator John Melcher, Chairman
Senate Select Committee on Indian Affairs
Room 6313
Dirksen Office Building
Washington, D.C. 20510

Attn: Ms. Jo Jo Hunt

Dear Senator Melcher:

We have just been informed that the Committee is conducting Oversight Hearings on the effect of proposed budget reductions on P.L. 81-874. P.L. 81-874, commonly referred to as Impact Aid, has been the major source of funding which the United States has partially met its historical, moral, and legal contribution to Indian education. It has been the only consistent federal contribution including Indian students in the American system of public education. Any further reductions in the Impact Aid program will force our schools to close at the beginning of the 1983-84 school year.

Congress documented and recognized the financial needs of public school districts located on Indian reservations in consideration and passage of P.L. 95-561, Title XI, Part A; The Indian Basic Education Act of 1978. The final report of the Presidential Commission on Impact Aid published in 1981, identified P.L. 81-874 funding as the only significant effort of the federal government to fulfill its trust responsibilities and treaty obligations related to the education of Native American students in public schools.

There are 277 Super A (highly impacted) Indian school districts in 22 States which will be severely affected if there are any more reductions in the Impact Aid program.

The enclosed information packet will provide you with an indepth analysis of the impact of any P.L. 81-874 reductions as well as each of the schools historical financial statistical data.

We are requesting that you include this information into the record and oppose any reductions in the Impact Aid program.

We cannot over-emphasize to you the hardships that any reduction will place on our children and community.

Thank you for your assistance and consideration.

Sincerely,

Sam Tebo sr.

Sam Tebo, Sr., Tribal Chairman
Winnebago Tribe of Nebraska

IMPACT AID FUNDING (P.L. 81-874)
AS IT RELATES TO THE MACY, SANTEE, AND WINNEBAGO SCHOOL DISTRICTS
LOCATED ON THE THREE INDIAN RESERVATIONS IN NEBRASKA

SANTEE PUBLIC SCHOOL

Present Enrollment	139
Indian Enrollment	130 (93.5%)
Students living on impacted land	138 (99.3%)
Total acres in school district	7,686
Tax exempt acres	2,674 (34.8%)
Actual evaluation of taxable land 1980-81	$692,160
Basic operational expenditures 1980-81	$557,434

Federal funds have historically provided 72-88 percent of the school budget

P. L. 81-874 have historically provided 49.8-79.9 percent of school budget

A new school facility was built in 1977 with federal (P. L. 81-815 impact aid) funds

The Bureau of Indian Affairs provided financial assistance prior to 1980 but based upon their response to the Omaha Tribe and Macy School, it is doubtful that they will assist without political intervention when they won't even come to discuss our dilemma.

WINNEBAGO PUBLIC SCHOOL

Present Enrollment	303
Indian Enrollment	272 (89.8%)
Students living on impacted land	146 (48.2%)
Total acres in school district	41,270
Tax exempt acres	16,767 (40.6%)
Actual evaluation of taxable land 1980-81	$11,520,601
Basic operational expenditures 1980-81	$786,282.01

Federal funds have historically provided 58.7 - 61.5 percent of school budget

P. L. 81-874 have historically provided 26.5 - 59.2 percent of the school budget

A new school facility was built in 1974 with federal (P.L. 81-815 impact aid) funds

The Bureau of Indian Affairs provided financial assistance prior to 1979 but based upon their response to the Omaha Tribe and Macy School, it is doubtful they will assist without a Congressional Mandate.

MACY PUBLIC SCHOOL

Present Enrollment	342
Indian Enrollment	338 (98.8%)
Students living on impacted land	309 (94.2%)
Total acres in school district	12,010
Tax exempt acres in school district	7,085 (58.9%)
Actual val ation of school district 1980-81	$1,041,117
Basic operational expenditures of school district 1980-81	$ 901,997.81

Federal funds have historically provided 75-97 percent of the school's operational budget.

P.L. 81-874 funds have historically provided 25-75 percent of the school's operational budget

A new school facility was built in 1973 with federal (P.L. 81-815 impact aid) funds

The Bureau of Indian Affairs provided financial assistance prior to 1979 but have since refused any assistance (See exhibit 11-A for Tribes' request and B.I.A.'s refusal).

IMPACT AID FUNDING (P.L. 81-874)
AS IT RELATES TO THE MACY, SANTEE, & WINNEBAGO SCHOOL DISTRICTS
IN THE STATE OF NEBRASKA

FACT 1 Impact aid has provided the following amount of the school districts' general operating budgets in the past ten years (Exhibits 1 A, 1 B, 1 C)

A. Macy: from 25.9% to 75.2%
B. Santee: from 49.8% to 79.9%
C. Winnebago: from 26.5% to 59.2%

FACT 2 Substantially less than full funding of the impact aid program has been provided in every year since 1968. Drastic cuts are proposed for FY-1982, FY-1983, and FY-1984. Any cuts in the program will place the schools in jeopardy in the 1982-83 school year.

FACT 3 The Bureau of Indian Affairs provided financial assistance prior to FY-79 with Johnson O'Malley Basic Support funds. We have requested the B.I.A.'s assistance in creating cooperative schools like some schools in North and South Dakota or request Johnson O'Malley Basic Support appropriations. They have refused this request (see exhibit 11). It is ironic that when Congress and the B.I.A. phased out Johnson O'Malley Basic Support funds in FY-79, the schools were told that the increase in P. L. 81-874 funds created by the Education Amendments of 78 would make up the loss of Johnson O'Malley funds.

FACT 4 Enrollment in the three school districts is substantially impacted. Federally connected students comprise the following amounts in the schools the past ten years (Exhibits 3 A, 3 B, 3 C).

A. Macy: from 75.2% to 97.2%
B. Santee: from 98.3% to 100%
C. Winnebago: from 75.9% to 98.3%

FACT 5 The receipts of the districts are heavily impacted by federal funds. The following percentages are those federal funds, excluding catagorical programs for the past ten years (Exhibits 6 A, 6 B, 6 C).

A. Macy: from 69.4% to 89.3%
B. Santee: from 63.8% to 88.1%
C. Winnebago: from 45% to 63.2%

FACT 6 The following percentages are those federal funds received the past ten years including catagorical programs (Exhibits 7 A, 7 B, 7 C).

A. Macy: from 75.9% to 91.1%
B. Santee: from 72.1% to 88.6%
C. Winnebago: from 58.7% to 74.5%

FACT 7 To replace the loss of impact aid receipts would require the following increases in tax rates (Based upon 1980-81 figures).

A. Macy 3,618%
B. Santee 3,359
C. Winnebago 354%

FACT 8 Despite public perceptions, Macy, Santee, and Winnebago do not have the highest per pupil costs in the State (Exhibits 8A, 8 B, 8C).

1979-80 State Statistics

A. Macy ranks 47th out of 295 school districts
B. Santee ranks 9th out of 295 school districts
C. Winnebago ranks 101st out of 295 school districts

FACT 9 The wealth of the districts as measured in actual valuation per student rank at the bottom in the State (Exhibits 9 A, 9 B, 9 C).

1980-81 State Statistics

A. Macy ranks 292nd out of 292 school districts
B. Santee ranks 291st out of 292 school districts
C. Winnebago ranks 289th out of 292 school districts

FACT 10 The mill levy of the school districts are at or near the State average (Exhibits 10 A, 10 b, 10 C).

A. Macy ranks 198th out of 292 (below average)
B. Santee ranks 16th out of 292 (above average)
C. Winnebago ranks 93rd out of 292 (above average)

FACT 11 State law prohibits school districts from borrowing beyond 70% of anticipated receipts.

FACT 12 State law requires school districts to offer teacher contracts no later than April 15. The schools are currently considering a clause in the contracts to allow termination with 30 days' notice in the event that the schools must close down due to the failure of receipt of anticipated State or Federal funds. Teacher recruitment, retention, and morale will likely be affected.

FACT 13 Three major studies of impact aid at approximately 10-year intervals have reaffirmed the economic equity of P.L. 874, particularly for highly impacted school districts:

(1) The Stanford Report, 1960's
(2) The Battelle Report, 1970's
(3) The Report of the Presidential Commission for the Review of Impact Aid, 1981

FACT 14 The three schools receive the highest amount per pupil under the State's equalization program.

OPTIONS WHICH MUST BE REVIEWED

(1) Replace lost funds by increasing local taxes

(2) Reduce programs by the amount of reduced funding

(3) Become a Cooperative or Contract school under the auspices of the Bureau of Indian Affairs

(4) Request special Federal legislation to fund our schools

(5) Request appropriations for the Bureau of Indian Affairs Johnson O'Malley Basic Support program. The authority is in law, however, there is no money appropriated for it.

(6) Consolidation with adjoining school district

(7) Close school

(8) Combinations of above

CONCLUSIONS AND OBSERVATIONS

OPTION 1 It is virtually impossible for Macy, Santee, and Winnebago to increase their tax rate sufficiently to make up for lost funds. In some cases, the actual valuation of taxable property in the school district is little more than the requirements to fund the schools for just one year. Any taxes levied on this basis would amount to a confiscation of the property of those few land owners in the districts. To put it bluntly, there is not enough taxable property in the districts to carry out this option.

OPTION 2 To reduce programs sufficiently would require the schools to cut back their general operations by 60 - 80 percent. Such a cut back would cripple the schools to such an extent that they could not continue to operate. The resulting loss in staff would cost the school their State accreditation and approval. The schools simply cannot make such cuts and survive!!

OPTION 3 This option has already been explored with the Bureau of Indian Affairs by the Omaha Tribe (Macy School) and was rejected (See Exhibit 11)

OPTION 4 The mechanism to fund the schools is already in existance through P.L. 81-874. We do not feel that another mechanism needs to be created.

OPTION 5 This option is also available if Congress would appropriate money for it.

OPTION 6 Surrounding school districts have one thing in common--they are poor. There is no way the taxpayers in these districts could or would assume the burden of educating an additional number of students which in some cases would be more than their own present enrollments. These schools are characterized by having inadequate facilities, lack of equipment, and low property valuation. To put it simply, they can't, they won't, and should not be asked to.

OPTION 7 The students from these districts are citizens and have the right to a free public education. Where would they get it?

SOURCES OF INFORMATION

Nebraska State Department of Education
Annual Financial Reports for the Macy, Santee and Winnebago Schools

P.L. 81-874 Applications for the Macy, Santee and Winnebago Schools

Bulletin #5 Ranking of Nebraska's Class II, II, IV, and V School Districts by Selected Financial Data From 1979-80 and 1980-81

Bulletin #5 Ranking of Nebraska's Class II, III, IV, and V School Districts by Selected Financial Data From 1980-81 and 1981-82

Nebraska Department of Education
Financial Report of Public School Districts
School Year 1979-80

EXHIBIT 1 A

MACY PUBLIC SCHOOLS

Comparison of Total Revenue Receipts
To Public Law 874 Receipts
Excluding Catagorical Federal Funds

School Year	PL 874	Total Revenue Receipts	Percent of PL 874 To Total
1972-73	$ 138,355.00	$ 535.316.54	25.9%
1973-74	174,749.00	566,171.97	30.9
1974-75	226,147.00	650,972.49	34.7
1975-76	216,641.24	606,128.35	35.7
1976-77	214,428.23	756,725.10	28.3
1977-78	664,227.24	1,057,578.78	62.8
1978-79	410,340.52	883,470.83	46.5
1979-80	522,744.86	753,042.80	69.4
1980-81	1,093,801.31	1,454,563.02	75.2

EXHIBIT 1 B

SANTEE PUBLIC SCHOOLS

Comparison of Total Revenue Receipts
To Public Law 874 Receipts
Excluding Categorical Federal Receipts

School Year	PL 874	Total Revenue Receipts	Percent of PL 874 To Total
1977-78	$ 327,615.20	$ 462,613.04	70.9%
1978-79	141,203.88	283,867.54	49.8
1979-80	166,191.35	284,643.21	58.4
1980-81	685,060.55	857,809.18	79.9

EXHIBIT 1 C

WINNEBAGO PUBLIC SCHOOLS

Comparison of Total Revenue Receipts
To Public Law 874 Receipts
Excluding Catagorical Federal Funds

School Year	PL 874	Total Revenue Receipts	Percent of PL 874 To Total
1972-73	$ 143,663.00	$ 379,268.62	26.5%
1973-74	168,897.00	380,699.11	44.4
1974-75	229,956.00	497,156.64	46.3
1975-76	198,135.00	493,481.85	40.2
1976-77	167,432.00	461,671.10	36.3
1977-78	412,976.00	774,463.35	53.4
1978-79	271,461.00	602,366.00	45.1
1979-80	442,312.00	747.069.66	59.2
1980-81	483,381.00	906,580.10	53.4

EXHIBIT 2 A

MACY PUBLIC SCHOOLS

Comparison of Total Revenue Receipts
To Public Law 874 Receipts
Including Catagorical Federal Funds

School Year	PL 874	Total Revenue Receipts	Percent of PL 874 To Total
1972-73	$ 138,355.00	$ 629,882.12	22.0%
1973-74	174,749.00	742,971.54	23.5
1974-75	226,147.00	861,578.12	26.2
1975-76	216,641.24	796,103.85	27.2
1976-77	214,428.23	950,429.02	22.6
1977-78	664,227.24	1,221,863.99	54.4
1978-79	410,340.52	1,044,338.72	39.3
1979-80	522,744.86	919,973.25	56.8
1980-81	1,093,801.31	1,678,067.10	65.2

EXHIBIT 2 B

SANTEE PUBLIC SCHOOLS

Comparison of Total Revenue Receipts
To Public Law 874 Receipts
Including Categorical Federal Receipts

School Year	PL 874	Total Revenue Receipts	Percent of PL 874 To Total
1977-78	$ 327,615.20	$ 496,565.79	66.0%
1978-79	141,203.88	313,036.75	45.1
1979-80	166,191.35	370,102.73	44.9
1980-81	685,060.55	913,476.56	75.0

EXHIBIT 2 C

WINNEBAGO PUBLIC SCHOOLS

Comparison of Total Revenue Receipts
To Public Law 874 Receipts
Including Catagorical Federal Funds

School Year	PL 874	Total Revenue Receipts	Percent of PL 874 To Total
1972-73	$ 143,663.00	$ 542,481.09	26.5%
1973-74	168,897.00	549,809.66	30.8
1974-75	229,956.00	755,805.04	30.5
1975-76	198,135.00	682,399.81	29.1
1976-77	167,432.00	654,157.27	25.6
1977-78	412,976.00	928,073.39	44.5
1978-79	271,461.00	802,594.00	33.9
1979-80	442,312.00	1,127,894.35	39.3
1980-81	483,381.00	1,373,743.03	35.2
1981-82			

EXHIBIT 3 A

MACY PUBLIC SCHOOLS

Percentage Relationship of Non-Federally
Connected Students to Federally Connected Students

School Year	Federally Connected	Non Federal	Percent Federally Connected
1973-74	302	100	75.2%
1974-75	344	47	88.0
1975-76	354	48	88.1
1976-77	361	34	91.4
1977-78	342	28	92.5
1978-79	304	18	94.4
1979-80	304	9	97.2
1980-81	309	19	94.2

EXHIBIT 3 B

SANTEE PUBLIC SCHOOLS

Percentage Relationship of Non-Federally
Connected Students To The Federally Connected Students

School Year	Federally Connected	Non Federal	Percent Federally Connected
1977-78	107	0	100.0%
1978-79	112	2	98.3
1979-80	105	1	99.1
1980-81	118	1	99.2
1981-82	139	1	99.3

EXHIBIT 3 C

WINNEBAGO PUBLIC SCHOOLS

Percentage Relationship of Non-Federally
Connected Students to Federally Connected Students

Year	Federally Connected	Non Federal	Percent Federally Connected
1973-74	280	37	88.4%
1974-75	282	15	95.0
1975-76	210	67	75.9
1976-77	243	34	87.8
1977-78	255	41	86.2
1978-79	249	53	82.5
1979-80	284	5	98.3
1980-81	281	25	91.9
1981-82	257	46	84.9

EXHIBIT 4 A

MACY PUBLIC SCHOOLS

Local, State and Federal Revenue Receipts
Excluding Catagorical Federal Funds

School Year	Local & County	State	Federal	Total
1972-73	$ 9,970.84	$ 46,990.70	$ 478,355.00	$ 535,316.54
1973-74	10,276.63	56,074.34	499,821.00	566.171.97
1974-75	11,768.72	167,930.07	471,273.70	650,972.49
1975-76	17,201.75	146,362.94	442,563.66	606,128.35
1976-77	25,013.84	147,637.81	584.073.45	756,725.10
1977-78	39.141.45	173,201.13	845,236.20	1,057,578.78
1978-79	35,718.73	201,272.58	646,479.52	883,470.83
1979-80	38,845.84	191,452.10	522,744.86	753,042.80
1980-81	67,822.87	292,938.84	1,093,801.31	1,454,563.02

EXHIBIT 4 B

SANILE PUBLIC SCHOOLS

Local, State and Federal Revenue Receipts
Excluding Catagorical Federal Funds

School Year	Local & County	State	Federal	Total
1977-78	$ 12,739.09	$ 42,349.65	$407,524.30	$ 462,613.04
1978-79	28,701.12	56,644.54	198,521.88	283,867.54
1979-80	28,320.81	74,828.05	181,494.35	284,643.21
1980-81	57,862.86	91,485.77	708,460.55	857,809.18

EXHIBIT 4 C

WINNEBAGO PUBLIC SCHOOLS

Local, State and Federal Revenue Receipts
Excluding Catagorical Federal Funds

School Year	Local & County	State	Federal	Total
1972-73	$ 93,770.29	$ 54,035.33	$231,463.00	$ 379,268.62
1973-74	75,065.77	64,736.84	240,896.50	380,699.11
1974-75	112,639.31	86,981.33	297,536.00	497,156.64
1975-76	142,502.50	104,844.35	246,135.00	493,481.85
1976-77	110,045.54	120,193.12	231,432.44	461,671.10
1977-78	145,913.28	151,340.09	477,209.98	774,463.35
1978-79	148,005.00	182,900.00	271,461.00	602,366.00
1979-80	154,671.31	150,084.96	442,312.39	747,068.66
1980-81	176,787.39	246,411.77	483,380.94	906,580.10

EXHIBIT 5 A

MACY PUBLIC SCHOOLS

Local, State and Federal Revenue Receipts
Including Catagori al Federal Funds

School Year	Local & County	State	Federal	Total
1972-73	$ 9,970.84	$ 46,990.70	$ 572,860.58	$ 629,822.12
1973-74	10,276.63	56,074.34	676,620.57	742,971.54
1974-75	11,768.72	167,930.07	681,879.33	861,578.12
1975-76	17,201.75	146,362.94	632,539.16	796,103.85
1976-77	25,013.84	147,637.81	777,757.39	950,429.02
1977-78	39,141.45	173,201.13	1,009,521.41	1,221,863.99
1978-79	35,718.73	201,272.58	807,347.41	1,044,338.72
1979-80	38,845.84	191,452.10	689.675.31	919,973.25
1980-81	67,822.87	292,938.84	1,317,305.39	1,678,067.10

EXHIBIT 5 B

SANTEE PUBLIC SCHOOLS

Local, State and Federal Revenue Receipts
Including Catagorical Federal Funds

School Year	Local & County	State	Federal	Total
1977-78	$ 12,739.09	$ 42,349.65	$441,477.05	$ 496,565.79
1978-79	28,701.12	56,644.54	227,691.09	313,036.75
1979-80	28,320.81	74,828.05	266,953.87	370,102.73
1980-81	57,862.86	91,485.77	764,127.93	913,476.56

EXHIBIT 5 C

WINNEBAGO PUBLIC SCHOOLS

Local, State and Federal Revenue Receipts
Including Catagorical Federal Funds

School Year	Local & County	State	Federal	Total
1972-73	$ 93,770.29	$ 54,035.33	$394,675.47	$ 542,481.09
1973-74	75,065.77	64,736.84	410,007.05	549,809.66
1974-75	112,639.31	86,981.33	556,184.40	755,805.04
1975-76	142,502.50	104,844.35	435,053.46	628,399.81
1976-77	110,045.54	120,193.12	423,918.61	654,157.27
1977-78	145,913.28	151,340.09	630,820.02	928,073.39
1978-79	148,005.00	182,900.00	471,689.00	802,594.00
1979-80	154,671.31	150,084.96	823,138.08	1,127,894.35
1980-81	176,784.89	246,411.77	950,543.87	1,373,743.03

EXHIBIT 6 A

MACY PUBLIC SCHOOLS

Percentage Relationship of Local
State and Federal Revenue Receipts
Excluding Catagorical Federal Funds

School Year	Local	State	Federal
1972-73	1.9%	8.8%	89.3%
1973-74	1.8	9.9	88.3
1974-75	1.8	25.8	72.4
1975076	2.8	24.1	73.1
1976-77	3.3	19.5	77.2
1977-78	3.7	16.4	79.9
1978-79	4.0	22.8	73.2
1979-80	5.2	25.4	69.4
1980-81	4.7	20.1	75.2

EXHIBIT 6 B

SANTEE PUBLIC SCHOOLS

Percentage Relationship of Local
State and Federal Revenue Receipts
Excluding Catagorical Federal Funds

School Year	Local	State	Federal
1977-78	2.7%	9.2%	88.1%
1978-79	10.1	19.9	70.0
1979-80	9.9	26.3	63.8
1980-81	6.7	10.7	82.5

EXHIBIT 6 C

WINNEBAGO PUBLIC SCHOOLS

Percentage Relationship of Local
State and Federal Revenue Receipts
Excluding Catagorical Federal Funds

School Year	Local	State	Federal
1972-73	24.7%	14.2%	61.1%
1973-74	19.8	17.0	63.2
1974-75	22.7	17.5	59.8
1975-76	28.9	21.3	49.8
1976-77	23.8	26.1	50.1
1977-78	18.9	19.5	61.5
1978-79	24.6	30.4	45.0
1979-80	20.7	20.1	59.2
1980-81	19.5	27.2	53.3

EXHIBIT 7 A

MACY PUBLIC SCHOOLS

Percentage Relationship of Local
State and Federal Revenue Receipts
Including Catagorical Federal Funds

School Year	Local	State	Federal
1972-73	1.6%	7.5%	90.9%
1973-74	1.4	7.5	91.1
1974-75	1.4	19.5	79.1
1975-76	2.2	18.4	79.4
1976-77	2.6	15.5	81.9
1977-78	3.2	14.2	82.6
1978-79	3.4	19.3	77.3
1979-80	4.2	20.8	75.0
1980-81	4.0	17.5	78.5

EXHIBIT 7 B

SANTEE PUBLIC SCHOOLS

Percentage Relationship of Local
State and Federal Revenue Receipts
Including Catagorical Federal Funds

School Year	Local	State	Federal
1977-78	2.6%	8.6%	88.6%
1978-79	9.2	18.1	72.7
1979-80	7.7	20.2	72.1
1980-81	6.3	10.1	83.6

EXHIBIT 7 C

WINNEBAGO PUBLIC SCHOOLS

Percentage Relationship of Local
State and Federal Revenue Receipts
Including Catagorical Federal Funds

School Year	Local	State	Federal
1972-73	17.3%	10.0%	72.7%
1973-74	13.7	11.8	74.5
1974-75	14.9	11.5	73.5
1975-76	20.9	15.4	63.7
1976-77	16.9	18.4	64.7
1977-78	15.8	16.2	68.0
1978-79	18.5	22.8	58.7
1979-80	13.8	13.2	73.0
1980-81	12.9	18.0	69.1

EXHIBIT 8 A

MACY PUBLIC SCHOOLS

Comparison of Macy's Per Pupil
Cost to Nebraska School Districts
for the 1979-80 School Year Excluding Class I

Macy	$3,061
Highest	$5,247
Lowest	$1,248
Median	$2,062
Average	$1,829

Macy's rank in comparison to the 295 unified districts with one being the highest was 47th. Therefore, 46 districts spent more than Macy in 1979-80.

EXHIBIT 8 B

SANTEE PUBLIC SCHOOLS

Comparison of Santee's Per Pupil
Cost to the 295 Unified Nebraska School Districts
for 1979-80 Excluding Class I

Santee	$3,824
Highest	$5,247
Lowest	$1,248
Median	$2,062
Average	$1,829

Santee's rank in comparison to the 295 unified districts with one being the highest was 9th. Therefore, 8 districts spent more than Santee in 1979-80.

EXHIBIT 8 C

WINNEBAGO PUBLIC SCHOOLS

Comparison of Winnebago's Per Pupil
Cost to the 295 Unified Nebraska School Districts
for the 1979-80 School Year Excluding Class I

Winnebago	$2,559
Highest	$5,247
Lowest	$1,248
Median	$2,062
Average	$1,829

Winnebago's rank in comparison to the 295 unified districts with one being the highest was 101. Therefore, 100 districts spent more than Winnebago in 1979-80.

EXHIBIT 9 A

MACY PUBLIC SCHOOLS

Comparison Of Macy's Actual
Valuation Per Pupil To The
292 Nebraska Unified School Districts
During FY 1981-82

Macy	$ 8,200
Highest	$ 434,550
Lowest	$ 8,200
Average	$ 122,325
Median	$ 107,071

Macy's rank in comparison to the 292 unified districts with one being the highest was 292. Therefore, 291 districts have more actual valuation per pupil than the Macy School District and none less.

EXHIBIT 9 B

SANTEE PUBLIC SCHOOLS

Comparison Of Santee's Actual
Valuation Per Pupil To The
292 Nebraska Unified School Districts
During FY 1981-82

Santee	$ 12,471
Highest	$ 434,550
Lowest	$ 8,200
Average	$ 122,325
Median	$ 107,071

Santee's rank in comparison to the 292 unified districts with one being the highest was 291st. Therefore, 290 districts have more actual valuation per pupil than the Santee School District and only one less.

EXHIBIT 9 C

WINNEBAGO PUBLIC SCHOOLS

Comparison of Winnebago's Actual
Valuation Per Pupil To The
292 Nebraska Unified School Districts
During FY 1981-82

Winnebago	$ 38,660
Highest	$ 434,550
Lowest	$ 8,200
Average	$ 122,325
Median	$ 107,071

Winnebago's rank in comparison to the 292 unified districts with one being the highest was 289. Therefore, 288 districts have more actual valuation per pupil than the Winnebago School District and only three less.

EXHIBIT 10 A

MACY PUBLIC SCHOOLS

Comparison of Macy's Operating
Levy To The Operating Levies Of The
292 Nebraska Unified School Districts
During FY 1981-82

Macy	$ 0.9963 per $100 of value
Highest	$ 2.3980 per $100 of value
Lowest	$ 0.5092 per $100 of value
Average	$ 1.1133 per $100 of value

Macy's rank in comparison to the 292 unified districts, with one being the highest levy, was 198th. Therefore, 94 districts have lower operating levies and 197 have higher mill levies.

EXHIBIT 10 B

SANTEE PUBLIC SCHOOLS

Comparison of Santee's Operating
Levy To The Operating Levies Of The
292 Nebraska Unified School Districts
During FY 1981-82

Santee	$ 1.6259 per $100 of value
Highest	$ 2.3980 per $100 of value
Lowest	$ 0.5092 per $100 of value
Average	$ 1.1133 per $100 of value

Santee's rank in comparison to the 292 unified districts, with one being the highest levy, was 16th. Therefore 276 districts have lower operating levies and 15 have higher mill levies.

EXHIBIT 10 C

WINNEBAGO PUBLIC SCHOOLS

Comparison of Winnebago's Operating
Levy To The Operating Levies Of The
292 Nebraska Unified School Districts
During FY 1981-82

Winnebago	$ 1.2182 per $100 of value
Highest	$ 2.3980 per $100 of value
Lowest	$ 0.5092 per $100 of value
Average	$ 1.1133 per $100 of value

Winnebago's rank in comparison to the 292 unified districts, with one being the highest levy, was 93. Therefore, 199 districts have lower operating levies and 92 have higher mill levies.

EXHIBIT 11
Page 1 of 7

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

REPLY REFER TO:
Indian Education
Code 530

FEB 9 1982

RECEIVED
FEB 15 1982
CHAIRMAN OF SUBCOMMITTEE

Mr. Elmer Blackbird
Chairman, Omaha Tribe of Nebraska
P. O. Box 368
Macy, Nebraska 68039

Dear Mr. Blackbird:

Thank you for your January 11 letter and tribal resolution addressed to Assistant Secretary Kenneth Smith concerning a request for Bureau funding for the Macy Public School in fiscal year 1984.

We regret that the continued operation of Macy School is in jeopardy. However, with continued budget cuts in programs such as Impact Aid, many public schools may be in similar circumstances. The Bureau of Indian Affairs is also faced with decreasing budgets with which to operate its programs.

Our office has reviewed all of the recommended alternatives provided in the resolution. However, the Bureau is not presently in a position to readily solve the funding issue of the school. Preparations for the fiscal year 1984 budget are just beginning. The fiscal year 1984 budget will be largely based on the amounts appropriated in 1983. As a result, it would be premature for us to speculate on the amount of additional funds, if any, that may be available to fund Macy School.

* We are, however, directing the Aberdeen Area Education Program Administrator, Mr. Harry Eagle Bull, to meet with you on the matter. He will be making a report to our office on the situation and recommend additional alternatives which could possibly resolve the funding problem.

We regret that the uncertainty of our education budget prohibits us from making a definite commitment. We hope you understand our concern for maintaining at least our present level of funding to programs and students already being served by the Bureau.

Please feel free to contact Mr. Eagle Bull or this office should you need additional information. Thank you for your continued support and interest in Indian education.

Sincerely,

Charles E. Johnson

Acting Director, Office of Indian Education Programs

cc: Harry Eagle Bull, Aberdeen Area Education Program Administrator

* ELMER: Harry has met with us and sent the attached correspondence to D.C. previous to this letter. This kind of commitment and assistance can only come from the Central office in D.C.

OMAHA TRIBE OF NEBRASKA

Omaha Tribal Council

P. O. Box 368
Macy, Nebraska 68039

Phone (402) 837-5391

OFFICERS
ELMER L. BLACKBIRD, [illegible]
MARK A. MERRICK, VICE CHAIRMAN
LEMUEL A. MARLAN, SECRETARY
DENNIS P. TURNER, TREASURER

MEMBERS
HOLLIS D. STABLER JR.
DORAN L. MORRIS
EDWIN WALKER

RESOLUTION
OF
THE OMAHA TRIBE OF NEBRASKA

Res. No. 82-39

WHEREAS, P.L. 81-874 (Impact Aid) funds comprise over 70% of the Macy Schools general operating budget, and

WHEREAS, P.L. 81-874 funds are scheduled for reduction to the point that our schools will not be able to operate the 1983-84 school year, and

WHEREAS, the Macy School was previously a B.I.A. school and

WHEREAS, the U.S. Government has the responsibility for the education of our children as a result of our treaties and the fact that the federal government has a trust responsibility of which education has been defined a part of that responsibility.

THEREFORE BE IT RESOLVED, that the Bureau of Indian Affairs determine which of the following options they will take to fulfill their responsibility:

-Re-assume the Macy School as a B.I.A. school
-Enter into a cooperative agreement whereby the B.I.A. and State share in the education of our children.
-Request appropriations under the authority of the Johnson O'Malley Act for basic operational support funds, and

BE IT FURTHER RESOLVED, that the Bureau of Indian Affairs notify the tribe as to a date before March 12, 1982 when someone from the Washington Office from the Secretarial level and Office of Indian Education with authority, will come to Macy and discuss this issue

EXHIBIT "I"
Page 1 of 1

CERTIFICATION

This is to certify that the foregoing resolution was considered at the meeting of the Omaha Tribal Council of the Omaha Tribe of Nebraska, duly called and held on the 11th day of January, 1982, and was adopted by a vote of [illegible] for, 0 against, and 3 not voting or absent. A quorum of five was present.

DATED THIS 11th DAY OF JANUARY, 1982.

Lemuel A. Harlan, Secretary

Attest:

Elmer L. Blackbird, Chairman

File

EXHIBIT II
Page 4 of 7

DEC - 9 1980

Area Education Program Administrator

Santee School

Director, Office of Indian Education Programs

The attached information is for your review. Perhaps it will be helpful to you in responding to Santee Tribal Resolution No. 81-2 transmitted to your office via our November 26, 1980 memorandum.

This issue is a good example of the need for the BIA to take a stand on what its educational responsibilities are to the Indian students attending the public school system. This is especially critical for those tribes where the BIA does not have any schools (either BIA or contract) at their agency.

This question was raised at the last line officers meeting in Denver. The response was that it was not the proper time or place to address the issue. Wherever the proper time and place may be I think we need to address this issue immediately so that the BIA can provide the proper directions and help to these schools. This offer of help must be one that the federal government can be held responsible for.

(SGD) HARRY EAGLE BULL

Area Education Program Administrator

Attachment: 1

NO RESPONSE

cc: Education Specialist, Winnebago Agency

* Note: Please provide us another copy of information. We sent our only copy to the D:O.I.E.P.

EXHIBIT 11
Page 5 of 7

UNITED STATES GOVERNMENT

memorandum

DATE: NOV 26 1980

REPLY TO ATTN OF: Area Education Program Administrator

SUBJECT: Santee Sioux Tribal Resolution 81-2 and 81-3

TO: Director, Office of Indian Education Programs

The attached Santee Tribal Resolution's are for your review and response.

We would recommend that all possible options that the Bureau may have be made available for responding to this need. Any solution to their dilemma would involve firm continual funding.

(SGD) HARRY EAGLE BULL

Area Education Program Administrator

Attachments

No Response

cc: Terry Walters, Ed. Spec., Winnebago Agency

RECEIVED
NOV 28 1980
BUREAU OF INDIAN AFFAIRS
EDUCATION
WINNEBAGO AGENCY
WINNEBAGO, NEBRASKA

Res. No. 81-2

EXHIBIT II
Page 6 of 7

RESOLUTION
OF THE
SANTEE SIOUX TRIBE OF NEBRASKA

WHEREAS, the Santee Sioux Tribe of Nebraska is a Federal Corporation chartered under the Act of June 18, 1934 (48 Stat. 984) as amended, and

WHEREAS, the Santee Sioux Tribe of Nebraska and the Santee School system have been waiting for an answere from the Bureau of Indian Affairs on our Cooperative School request since February of 1979, and

WHEREAS, the Bureau of Indian Affairs, Washington, D.C. has never responded to our request, and

WHEREAS, Mr. Rick Lavis, Deputy Assistant Secretary of Interior - Indian Affairs promised a response, and

WHEREAS, the Santee School is in dire need of assistance,

THEREFORE BE IT RESOLVED, that the Bureau of Indian Affairs, Washington, D.C. provide the Santee Sioux Tribe and School technical assistance in determining the feasibility of becoming a Cooperative School, and

BE IT FURTHER RESOLVED THAT, this technical assistance be provided immediately (12-01-80) by one of the Washington personnel with decision making authority.

CERTIFICATION

This is to certify that the foregoing Resolution was considered at a regular meeting of the Tribal Council of the Santee Sioux Tribe of Nebraska, held on the 15 day of Oct, 1980 and was adopted by a vote of 7 for and 0 against and 0 absent.

Dated this 23 day of October, 1980.

CHAIRMAN

SECRETARY

EXHIBIT 11
Page 1 of 1

Administration

December 1, 1978

NO RESPONSE

Memorandum

To: Mr. Rick Lewis, Deputy Assistant Secretary
Indian Affairs for Program Operations

From: Superintendent, Winnebago Agency

Subject: Cooperative School Information

The attached is a packet of information which is self-explanatory surfacing the past failures in our attempts to do something about the future education of approximately 800 Indian students attending the Macy, Winnebago, and Santee Public Schools.

The attached tribal resolutions and correspondence date back to 1975 in which the tribes have been requesting technical assistance in establishing cooperative schools. The tribes have not been receiving that technical assistance which is contrary to P.L. 93-638 regulations.

I am requesting that the Central Office develop and forward a "Plan of Action" to implement the cooperative school concept by February 1, 1979 in order that the tribes and schools will be able to plan a program for the 1979-1980 school year.

H.R. 15 or Title XI will not adequately address the financial problems of our three schools as the attached financial data indicates.

I am forwarding this directly to you with a copy to the Area Office due to the limited time frame.

Please reply to this memorandum as soon as possible in order that we may advise the three tribes and schools as to what action is needed.

Thank you for your prompt consideration and attention to this matter.

cc: Omaha Tribal Chairman
Winnebago Tribal Chairman
Santee Sioux " "
Area Director

Superintendent